



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>

T

I

BARR

P

CW. U.K.
530

C438a1

THE BANKRUPTCY ACT

1883.

WITH

INTRODUCTION, INDEX AND BRIEF NOTES.

BY

M. D. CHALMERS, M.A.,

BARRISTER-AT-LAW, EDITOR OF THE BILLS OF EXCHANGE ACT, 1882, ETC.,

AND

E. HOUGH,

OF THE BOARD OF TRADE.

LONDON:

PUBLISHED BY WATERLOW & SONS LIMITED,
LONDON WALL, E.C.

1883.

Cw. U.K.

530

C438a1

L. Eng. C. 28. c-
Bankruptcy. 88.

CW .U.K.

X 530

C 438 a 1



THE BANKRUPTCY ACT

1883.

THE BANKRUPTCY ACT

1883.

WITH

INTRODUCTION, INDEX AND BRIEF NOTES.

BY

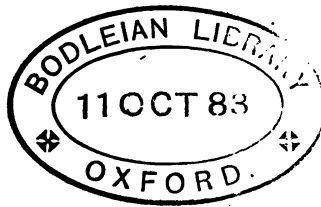
M. D. CHALMERS, M.A.,

BARRISTER-AT-LAW, EDITOR OF THE BILLS OF EXCHANGE ACT, 1882, ETC.,

AND

E. HOUGH,

OF THE BOARD OF TRADE.



LONDON:

PUBLISHED BY WATERLOW & SONS LIMITED,
LONDON WALL, E.C.

1883.

PREFACE.

IT should be noted that ss. 66, 127 to 129, 153, 162 and 170, come into operation on the passing of the Act. The rest of its provisions come into operation on the 1st of January next. Sect. 162 relates to the collection of unclaimed dividends, and s. 170 restricts compositions and liquidations under the Act of 1869.

Until the rules and forms prescribed by the Act are issued, an edition of it containing anything like a critical examination of its provisions would be useless, if not misleading. When the rules and forms are published, we hope to bring out an edition comprising the Act with notes, the rules and forms, and such Board of Trade orders and circulars as may be of use to the public, or those engaged professionally in bankruptcy administration. In the mean time a reprint of the Act, in a handy form, with an explanatory introduction, index, and references to the Act of 1869, may be of some use to those who are anxious at once to make themselves acquainted with the more salient features of the new measure.

M. D. C.

11, NEW COURT, LINCOLN'S INN, W.C.

INTRODUCTION.

1. The Bill, which has now become the Bankruptcy The Act. Act, 1883, was introduced by the President of the Board of Trade (the Right. Hon. J. Chamberlain), in February last. It was read a second time in the House of Commons on the 19th of March, and was the first measure referred to the new Standing Committee on Trade. The Grand Committee held nineteen sittings to consider the Bill, and reported it to the House with numerous amendments. The House accepted the measure as it came from the hands of the Committee, and it passed through the stages of report and third reading without a single division. It was introduced in the Lords on the 17th of August, and various amendments in matters of detail were there inserted. The Bill received the Royal Assent on the 25th of August.

2. "Every good bankruptcy law," said Mr. Chamberlain, on moving the second reading of the Bill, "must have in view two main, and at the same time, distinct objects. Those objects were, first, the honest administration of bankrupt estates, with a view to the fair and speedy distribution of the assets among the creditors whose property they were; and, secondly, following the idea that prevention is better than cure, to do something to improve the general tone of commercial morality, to promote honest trading, and to lessen the number of failures. In other words, Parliament had to endeavour, as far as possible, to protect the salvage

Principles of
bankruptcy
legislation.

and to diminish the number of wrecks." The various measures which have hitherto been tried in England, in order to realize those ends, have certainly not been too successful.

Previous
legislation.

3. "The history of previous legislation," he continued, "might be traced as follows:—Before 1831 creditors might be said to have had full control of the administration of bankrupt estates. On all hands the most general dissatisfaction was expressed with that state of things, which was no other than a chaos. In 1831 an Act was passed, which was known as Lord Brougham's Act, and which, for the first time, introduced a system of official administration. In the first instance, it introduced it in a very limited form, and to a very limited extent. It introduced a class of officials who were known as Official Assignees attached to the London Bankruptcy Court, and not to the Courts in country districts; and to those officials was given, practically, the control of the administration of bankrupt estates. In 1840, after this official system, which, as he had already pointed out, went very much further than this Bill, and was, in fact, different in its object, had been in existence for nine years, a Royal Commission was appointed to consider the subject of bankruptcy; and this commission recommended the extension of official assigneeism to the country generally. In 1842 the system was accordingly extended with general approval; indeed, there was a chorus of congratulations on the extension of the system, which was now said to be universally condemned. In 1847, sixteen years after the first introduction of the system, there was a Select Committee, which reported unanimously in its favour; and they stated that all the opinions and all the evidence were in favour of the new system, as a great

improvement, and it was universally approved of by the mercantile world. In 1849 there was another Select Committee of both Houses, which dealt with other branches of the subject, but which, in reference to this matter of official administration, made no complaints whatever, and the Act which followed on their report confirmed those officers in their functions. It was not until 1861, thirty years after the first institution of those assignees, that the system was generally condemned, and an Act was passed which very much limited their duties, and practically reduced them to nonentities. In 1864 there was a celebrated committee which reported entirely against the system, and advised that official assignees should be totally abolished; and in 1869, to complete the history, they were accordingly totally abolished, and the public entered once more on a system of voluntaryism, which again led to absolute chaos and gave general dissatisfaction. What he pointed out to the House as significant, and as worthy of observation, was this—that the only system which gave any satisfaction at all, and that only for a limited term of twenty years, was the official system. He had been led to make inquiry in order to ascertain how it was that this system, which was so popular at first, which was shortly afterwards extended, and which was confirmed and approved by repeated committees and commissions, should yet, in a period of twenty years, have fallen into disrepute, and, after a period of thirty years, should have been universally condemned. One reason, he thought, was this. The system was under the Courts, and not under a responsible department.”

4. The present Act makes a fresh departure in bankruptcy legislation. A severance is made between

Objects of
present Act.

judicial and administrative functions. Judicial functions, of course, are left to the courts, but administrative supervision and control are entrusted to an executive department of the State, namely, the Board of Trade. Creditors will still retain the general control over the estate of the bankrupt; but his conduct will be the subject of an independent investigation with a view to his punishment, if his insolvency has been the result of culpable recklessness or fraud. Trustees will be subject to the supervision of the Board of Trade, who will require them to give security, audit their accounts and exercise a general superintendence over their dealings. According to the theory of the Act of 1869, the debtor and his creditors were the only parties concerned in a bankruptcy. The present measure recognizes, and gives effect to the principle, that bankruptcy is a matter which, indirectly, if not directly, affects the community at large. The Act accordingly provides that in all proceedings under it, whether they terminate in bankruptcy proper, or in a composition or scheme of arrangement, the debtor shall have his affairs investigated and reported upon by an officer of the Board of Trade (the official receiver), and shall undergo a public examination. That is a turnstile through which every insolvent debtor must pass. Whether he will be allowed to enter into a composition or to obtain a discharge, will depend on the result of those investigations into his previous conduct.

SUMMARY OF CHANGES IN THE LAW.

Summary of
changes
effected.

5. The main features in which the present Act changes the law as settled by the Act of 1869 are thus summarised in a memorandum prepared by the Board of Trade, to accompany the Bill in the House of Lords.

All proceedings under the bankruptcy law are to be commenced by a bankruptcy petition, leading up to an order of the court, to be called a receiving order, which shall have one of two results, either composition or arrangement on the one hand, or bankruptcy on the other. Liquidation, and composition otherwise than under a petition and with the approval of the court, are abolished.

Initiation of proceedings.

A bankruptcy petition may be presented either by a creditor or by the debtor (s. 5).

The amount of debt sufficient to ground a creditor's petition remains as in the Act of 1869 at £50, but a debt payable at some certain future time gives a *locus standi* as petitioner (s. 6).

Execution for any amount under process in an action, failure after seven days' notice to pay a judgment debt, and notice of suspension of payment, are acts of bankruptcy (s. 4 (1 *d, f, g*)). The distinction between traders and non-traders in relation to acts of bankruptcy, and generally throughout the Bill, is abolished.

Bankruptcy proceedings by debtor's summons are abolished, and are superseded by the provision mentioned above for service of a bankruptcy notice on failure to pay a judgment debt (s. 4 (1 *f*)).

An official receiver may be appointed to be receiver of the debtor's property at any time after the presentation of a creditor's petition. Any court in which proceedings are pending against the debtor may stay the proceedings on proof of presentation of a bankruptcy petition (s. 10).

The first result of a bankruptcy petition, properly substantiated, will be the making of a receiving order by the court. The effect of a receiving order will be to

Receiving orders.

constitute the person appointed to act as official receiver, receiver of the debtor's property, and to stay proceedings by unsecured creditors. The order will not, as in the case of an adjudication order, make the debtor a bankrupt or divest him of his property, or subject him to the forfeitures and disabilities contingent on bankruptcy (ss. 5, 7, 8, and 9).

Proceedings
after receiving
orders.

The official receiver, for whose appointment provision is made by section 66, may, on the application of creditors, appoint a special manager of the debtor's business to act until a trustee is appointed (s. 12).

If no such appointment is made the official receiver acts as manager (s. 70).

The debtor is to give the official receiver full information as to his affairs and failure, and in particular is to make out at once a statement of his assets and liabilities (s. 16).

First meeting,
proofs, votes,
proxies.

The first meeting of creditors, after the making of a receiving order, is to be held for the purpose of considering whether a composition or scheme of arrangement shall be entertained, or whether the debtor shall be adjudged bankrupt, and in the latter case the creditors may at once appoint a trustee (ss. 15, 21).

The meeting is to be summoned by the official receiver, to be held within fourteen days of the receiving order, unless a later date is for any special reason allowed, and at least seven days' notice must be given by advertisement. The official receiver is also to send notice to each creditor, together with a summary of the debtor's statement and the receiver's observations thereon (Schedule I., Rules 1-3).

Proofs are to be lodged before the time appointed for the meeting (Schedule I., Rule 8). Creditors who have proved may examine proofs of other creditors

(Schedule II., Rule 7). A partially secured creditor may amend his proof for the unsecured portion of his debt (Schedule II., Rules 14, 15).

The voting rights of bill holders are limited (Schedule I. Rules 11, 12).

Proxies are to be on an official form, and must be filled up in the handwriting of the person giving the proxy. A creditor may only give a general proxy to a person in his regular employment, or holding a general power of attorney from him, or to the official receiver. All proxies must be deposited with the official receiver or trustee before the meeting at which they are to be used (Schedule I., Rules 15-21).

Every debtor against whom a receiving order is made is to be publicly examined in Court as to his conduct, dealings, and property ; the official receiver is to take part in the examination ; the creditors, and the trustee, if appointed, may also put questions, and the debtor is to be bound to answer all questions which may be properly put to him (s. 17).

Public examination of debtor.

At the first meeting the creditors may resolve by special resolution to entertain a proposal for a composition or scheme of arrangement.

Composition or scheme of arrangement.

For the acceptance of a composition or arrangement there must be a subsequent confirming resolution by a majority in numbers representing three-fourths in value of all the creditors, which must not be passed until the debtor's public examination is concluded, nor until there has been circulated among the creditors a notice stating the terms of the proposal and a report of the official receiver thereon (s. 18 (1-3)).

When a composition or scheme of arrangement has been accepted the Court may approve it after hearing a report of the official receiver, but shall withhold its

approval if the proposal does not appear to be reasonable or calculated to benefit the general body of creditors, or if the debtor has committed any misdemeanor under the Bankruptcy Law, or under Part II. of the Debtors' Act, 1869. It is also within the discretion of the Court to withhold its approval if the debtor has been guilty of any such misconduct as would justify the Court in withholding, suspending, or qualifying his discharge (s. 18 (5, 6)).

Any trustee appointed under a composition or scheme is to be subject to all the regulations applicable to a trustee in bankruptcy, and the provisions of Part III. of the Bill with reference to administration of property are to apply to a composition or scheme as far as possible (s. 13 (12, 13)).

**Adjudication of
Bankruptcy.**

If a composition or scheme is not accepted and approved, or if the creditors pass a resolution that the debtor be adjudged bankrupt, or pass no resolution, the Court will adjudge the debtor bankrupt, and the property of the bankrupt then becomes divisible amongst his creditors and vests in a trustee (s. 20).

**Appointment of
Trustee.**

Where a debtor is adjudged bankrupt, or the creditors have resolved in favour of adjudication, they may appoint a trustee (s. 21 (1)). The trustee must give security to the satisfaction of the Board of Trade, and the Board may, subject to an appeal to the High Court, object to his appointment on the ground that it has not been made in good faith by a majority in value of the creditors, or that he is unfit to act, or that he is not likely to act in the interests of the creditors generally. The certificate of appointment is to be given by the Board of Trade (s. 21 (2) (3)).

If the creditors fail to appoint a trustee within four weeks from the date of the adjudication, or within a

longer period if negotiations for composition or arrangement are pending, the Board of Trade may appoint some fit person to be the trustee, subject to the right of the creditors to appoint a trustee at any subsequent time (s. 21 (6, 7)).

During any vacancy the official receiver acts as trustee (s. 70 (1 g.)).

On the appointment of a trustee the duties of the official receiver connected with the management of the property cease, or are suspended, but he continues to watch the case, and to act, if necessary, in the interests of justice (*see* s. 68 70, 82 (4), &c.).

A committee of inspection may be nominated by the creditors qualified to vote at their first or any subsequent meeting, and must consist of creditors qualified to vote, or the holders of general proxies or general powers of attorney from such creditors. There are to be not more than five nor less than three members (clause 22 (1)). If a committee is not appointed, the Board of Trade will direct the trustee in the matters in which he is required to have the permission of the committee of inspection (s. 22 (9)).

Committee of
Inspection.

The creditors may at any time after adjudication resolve by special resolution to entertain a composition or scheme, whereupon the same proceedings ensue as in case of composition or scheme before adjudication. If default is made in carrying out the composition the bankruptcy may be revived (s. 23).

Composition or
Scheme after
Adjudication.

At any time after being adjudged bankrupt the bankrupt may apply to the Court for an order of discharge, but the application is not to be heard until the public examination of the bankrupt is concluded. Notice of the day fixed for the hearing is to be published and sent to the creditors. On the hearing of the

Discharge of
Bankrupt.

application the Court is to take into consideration the report of the official receiver as to the bankrupt's conduct and affairs, and may either grant the order unconditionally, or, on proof of certain acts of misconduct by the bankrupt, refuse or suspend it, or qualify it by conditions as to after-acquired property, but the Court is directed to refuse discharge if the debtor has committed any misconduct under the Bankruptcy Law, or under Part II. of the Debtors' Act, 1869 (Clause 28). These proposals are substantially identical with those contained in the Bill of the late Attorney-General (Sir John Holker).

The provisions of the existing Act (s. 54) under which an undischarged bankrupt is protected for three years from the close of his bankruptcy are not reproduced, and provision is made for enabling the Court to make an order under which a bankrupt's after-acquired property may be recovered and applied for the benefit of his creditors (s. 28 (6)). An undischarged bankrupt who obtains credit from any person to the extent of £20 or upwards, without informing such person of his status, is to be held guilty of a misdemeanour (s. 31).

Civil
Disabilities of
Bankrupt.

The position of a bankrupt peer is assimilated to that of a member of the House of Commons, by making mere discharge insufficient to rehabilitate him (s. 32).

Adjudication is also made a disqualification for election to the House of Commons, and not only for holding, but for appointment or election to the offices of justice of the peace, mayor, alderman, councillor, guardian of the poor, overseer of the poor, member of sanitary authority, school board, highway board, burial board, or select vestry. In all cases disqualification continues until it is removed by the annulment of the bankruptcy, or by the discharge of the bankrupt with a

certificate that the bankruptcy was caused exclusively by misfortune (s. 32).

The Court may commit a bankrupt or any other person for trial when it has reason to believe that he has been guilty of a misdemeanour under the Bankruptcy Acts, and the Public Prosecutor is to carry on the prosecution (ss. 165, 166).

Punishment of
Fraudulent
Debtors.

Discharge or composition is to be no defence against a criminal prosecution (s. 167).

An undischarged bankrupt who obtains credit to the extent of £20 without informing the person from whom he gets credit that he is a bankrupt, will be guilty of a misdemeanour.

The Court may annul a bankruptcy on approval of a composition or scheme, or where it is of opinion that the debtor ought not to have been adjudged bankrupt, or on proof that the debts of the bankrupt are paid in full (ss. 23, 35).

Annulment of
Bankruptcy.

The first dividend must, except under special circumstances, be declared and distributed within four months from the conclusion of the first meeting of creditors, and subsequent dividends at intervals of not more than six months (s. 58).

Distribution of
Property.

Before declaration of the final dividend, notice is to be given to persons claiming to be creditors, but who had hitherto failed to establish their claims (s. 62).

The committee, instead of the general creditors, are to authorise any allowance to the bankrupt (s. 64 (2)).

The Board of Trade are to appoint such persons as they think fit to be official receivers of debtors' estates. These receivers are to be attached to each Court of Bankruptcy, and will act under the general authority of the Board of Trade, but will also be officers of the Court (s. 66).

Administrative
Staff.

Their functions include some acts which are done by

the registrars under the existing system. The principle of the proposed change is to separate judicial and administrative functions, and to commit the superintendence of the latter to officers acting under a responsible Department of State.

The duties of an official receiver, which are detailed in sections 68-70, bear relation both to the conduct of the debtor and to the administration of his estate, and are generally—

- (a.) To protect the interests of the general public by inquiring into, exposing, and providing for the punishment of fraudulent and reckless trading or culpable extravagance :
- (b.) To protect the interests of the creditors at an early stage of the proceedings by obtaining and giving them the information, without which they are helpless, and which experience shows they are unable to obtain for themselves :
- (c.) To act as receiver of the bankrupt's estate pending the appointment of a trustee, and as manager, where no special manager is appointed.

He will also receive and examine proofs and take such other formal proceedings as are required to be taken before the creditors are called together.

The Board of Trade are to have power to appoint such other officers as may be required for the execution of the Act (s. 71).

The existing Comptroller in Bankruptcy and his staff are to act under the direction of the Board of Trade, and provision is made for the abolition or continuance, under modified conditions, of the office of any of the said persons on the occurrence of a vacancy (s. 153).

The official receivers and other persons appointed by

the Board of Trade will be paid out of public money, and the Exchequer will be recouped by means of fees and percentages (ss. 77, 128).

The remuneration of the trustee (unless he be the official receiver) is to be fixed by the creditors or committee of inspection, and to be in the nature of a commission or percentage charged partly on the net amount realised and partly on the amount distributed in dividend. If one-fourth in number or value of the creditors object, the Board of Trade is to fix the amount of the remuneration. The resolution must express what expenses the vote is to cover, and where nothing is voted the taxing officer is to tax the trustee's bill (s. 72).

Regulations
affecting
trustee in
bankruptcy.

A trustee or manager is not to be allowed payment in respect of the performance of duties by other persons which ought to be performed by himself. All bills of solicitors, auctioneers, &c., are to be taxed (s. 73).

The trustee must, as a general rule, pay all money over £50 into the Bank of England to the credit of the Board of Trade, and all payments out will be made by order of the Board of Trade (s. 74 (3, 5, 6)). But under certain specified circumstances the committee of inspection may apply to the Board of Trade to authorise the trustee to make his payments into and out of a local bank (s. 74 (4)). When the general cash balance to the credit of bankrupts' estates is in excess of the requirements for bankruptcy purposes the surplus is to be invested and the income of the investments is to be paid to the Exchequer for the purpose of meeting the expenditure out of public money in respect of bankruptcy proceedings (s. 76).

Every trustee is to have his accounts audited not less than twice in each year by the Board of Trade. The accounts, when audited, are to be filed at the Board and

at the Court, and are to be open to the inspection of the creditors (s. 78).

Every trustee in a bankruptcy is not less than once a year during its continuance to transmit to the Board of Trade a statement of the proceedings in the bankruptcy. The Board of Trade is to examine the trustee's statement and his accounts, and to call the trustee to account for any misfeasance, &c. (s. 81).

The trustee is not to be released, except after consideration by the Board of Trade of a report as to his accounts and of any objections urged by any creditor or other interested person against the proposed release (s. 82).

A trustee vacates his office if a receiving order is made against him (s. 85).

The creditors may remove their trustee by ordinary, and not, as at present, by special resolution (s. 86 (1)). The Board of Trade may remove a trustee for misconduct, subject to appeal to the High Court (s. 86 (2)).

If the creditors fail to fill a vacancy in the office of trustee within three weeks, the Board of Trade may appoint a trustee, subject to the right of the creditors to appoint a trustee of their own subsequently (s. 87).

Restrictions are placed on the voting powers of the trustee and his partners and agents in questions affecting his remuneration and conduct (s. 88).

Judicial staff.

The London Court of Bankruptcy is to be merged in the High Court of Justice, but bankruptcy proceedings are to preserve their distinctive name, and are to be transacted by or under the direction of a judge specially assigned for the purpose (ss. 93, 94).

There is to be power to transfer proceedings from one court to another court, and also to transfer any question of law for trial from a local court to the High Court (s. 97).

The powers and jurisdiction to be exercised by registrars are defined by the Bill, and, speaking broadly, are to be confined to urgent applications and uncontested matters (s. 99).

The jurisdiction and powers in relation to judgment debtor's summons under section five of the Debtors' Act, 1869, now vested in the High Court, may be assigned to the bankruptcy judge, and to registrars in bankruptcy in the High Court, and county courts may exercise jurisdiction under the said section although the amount of the judgment debt may exceed £50. Power is given to a court having bankruptcy jurisdiction to make a receiving order against the debtor in lieu of committal under the said section (s. 103).

An appeal is to lie alike from the High Court to the Court of Appeal and from a local court to the Court of Appeal. The Court of Appeal may give leave to appeal from their own decision to the House of Lords (s. 104).

In the case of small bankruptcies, *i.e.*, where the assets are expected to be under £300, a more summary procedure is adopted. In these cases the official receiver will act as trustee, unless the creditors specially resolve to appoint a trustee of their own, and will proceed to get in the assets and wind up the estate as quickly as possible (s. 121).

Small
bankruptcies.

Where a debtor is unable to pay forthwith a county court judgment debt, and alleges that his whole indebtedness amounts to a sum not exceeding £50, the court may make an order for the administration of his estate or earnings and for the payment of his debts, in part or wholly, by instalments or otherwise. The order of the court will protect the debtor from proceedings by his scheduled creditors (s. 122).

Provision is to be made, as under the Scotch law, for

Miscellaneous.

the administration in bankruptcy of the estate of a deceased person, but where an order for the administration of the deceased person's estate otherwise than in bankruptcy has previously been taken out, the proceedings may only be transferred to bankruptcy with the consent of the court (s. 125).

Provision is made for adjusting the conflict between the rights of execution creditors and of general creditors under a bankruptcy (ss. 45, 46).

The evasion of the Bankruptcy Act by the device of seizing goods under writs of *elegit* and *feri facias* is put a stop to (s. 146).

The law as to undue preferences, and as to disclaimer of onerous property, is to be amended (ss. 48, 55), and sundry proposals contained in the Bills of previous sessions are adopted.

Provision is also made, as in the Bill of the late Attorney General, for enabling the Crown to get in unclaimed or undistributed funds under the existing and previous Acts (s. 162).*

French Law.

6. How the new measure will work it would be idle at present to attempt to forecast. That is a matter which lies *in gremio deorum*. But a glance over the summary of changes in the law enumerated above will show how largely the success of the measure must depend on the efficiency of the new official receivers. It may be of interest to note how closely their functions resemble those of the *juges commissaires* under the French system. The status of the *juge commissaire* is different from that of the English official receiver. He is a member of the Bankruptcy Court and an appeal lies

* The memorandum is dated August, 1883, and bears the signature of Sir T. H. Farrer, the Permanent Secretary of the Board of Trade.

from all his decisions to the court. His position, therefore, is pretty much that of a registrar under the Act of 1869. His duties, however, are closely analogous to those of the official receiver. The order of the court declaring the insolvency designates also the *juge commissaire* who is to have charge of the proceedings. (French Code de Commerce, Arts. 451 and 454). It is his duty to convene the first meeting of creditors, to decide whether the debtor, who it seems is always liable to be arrested in the first instance, shall be admitted to bail (Art. 472), to examine the debtor concerning his affairs and the causes of his failure (Art. 477); to superintend the realisation and administration of the estate by the syndics or trustees (Arts. 485 and 486), and to discharge the functions vested by the Act in the committee of inspection as to dividends, authorising sales of property, &c.; to report to the court before any proposal for a composition is entertained (Art. 514), to attend and preside at the subsequent meetings of creditors if composition is not allowed (Art. 532), and to present to the court the resolutions of the creditors concerning the debtor's discharge (Art. 538). In Italy the status and functions of the judge delegate appear to be strictly analogous to the status and functions of the *juge commissaire* in France. The French system is said to work efficiently, and at any rate French bankruptcies show better dividends than English bankruptcies.* What effect the adoption in England of a similar scheme of administration will have on dividends here is a matter which the mercantile community will watch with a more than speculative interest.

* See *Economist* of 16th December, 1882, for statistics of French bankruptcies and dividends.

ARRANGEMENT OF SECTIONS.

Preliminary.

SECTIONS.

1. Short title.
 2. Extent of Act.
 3. Commencement of Act.
-

PART I.

PROCEEDINGS FROM ACT OF BANKRUPTCY TO DISCHARGE.

Acts of Bankruptcy.

4. Acts of Bankruptcy.

Receiving Order.

5. Jurisdiction to make receiving order.
6. Conditions on which creditor may petition.
7. Proceedings and order on creditor's petition.
8. Debtor's petition and order thereon.
9. Effect of receiving order.
10. Discretionary powers as to appointment of receiver and stay of proceedings.
11. Service of order staying proceedings.
12. Power to appoint special manager.
13. Advertisement of receiving order.
14. Power to Court to annul receiving order in certain cases.

Proceedings consequent on Order.

15. First and other meetings of creditors.
16. Debtor's statement of affairs.

Public Examination of Debtor.

SECTIONS.

17. Public examination of debtor.

Composition.

18. Power for creditors to accept and Court to approve composition or arrangement.
19. Effect of composition or scheme.

Adjudication of Bankruptcy.

20. Adjudication of bankruptcy where composition not accepted or approved.
21. Appointment of trustee.
22. Committee of inspection.
23. Power to accept composition or scheme after bankruptcy adjudication.

Control over Person and Property of Debtor.

24. Duties of debtor as to discovery and realisation of property.
25. Arrest of debtor under certain circumstances.
26. Re-direction of debtor's letters.
27. Discovery of debtor's property.

Discharge of Bankrupt.

28. Discharge of bankrupt.
29. Fraudulent settlements.
30. Effect of order of discharge.
31. Undischarged bankrupt obtaining credit to extent of £20 to be guilty of misdemeanour.

PART II.

DISQUALIFICATIONS OF BANKRUPT.

32. Disqualifications of bankrupt.
33. Vacating a seat in House of Commons.
34. Vacating of municipal and other offices.
35. Power for Court to annul adjudication in certain cases.
36. Meaning of payment of debts in full.

PART III.

ADMINISTRATION OF PROPERTY.

Proof of Debts.

SECTIONS.

- 37. Description of debts provable in bankruptcy.
- 38. Mutual credit and set-off.
- 39. Rules as to proof of debts.
- 40. Priority of debts.
- 41. Preferential claim in case of apprenticeship.
- 42. Power to landlord to distrain for rent.

Property available for Payment of Debts.

- 43. Relation back of trustee's title.
- 44. Description of bankrupt's property divisible amongst creditors.

Effect of Bankruptcy on antecedent Transactions.

- 45. Restriction of rights of creditor under execution or attachment.
- 46. Duties of sheriff as to goods taken in execution.
- 47. Avoidance of voluntary settlements.
- 48. Avoidance of preferences in certain cases.
- 49. Protection of *bona fide* transactions without notice.

Realisation of Property.

- 50. Possession of property by trustee.
- 51. Seizure of property of bankrupt.
- 52. Sequestration of ecclesiastical benefice.
- 53. Appropriation of portion of pay or salary to creditors.
- 54. Vesting and transfer of property.
- 55. Disclaimer of onerous property.
- 56. Powers of trustee to deal with property.
- 57. Powers exercisable by trustee with permission of committee of inspection.

Distribution of Property.

- 58. Declaration and distribution of dividends.
- 59. Joint and separate dividends.
- 60. Provision for creditors residing at a distance, &c.
- 61. Right of creditor who has not proved debt before declaration of a dividend.

- 62. Final dividend.
- 63. No action for dividend.
- 64. Power to allow dividends to mortgage property. All ways to
dividend if maintenance of service.
- 65. Right of dividend to surplus.

PART IV.

OFFICIAL RECEIVERS AND STAFF OF BOARD OF TRADE.

- 66. Appointment by Board of Trade of official receivers of debtors' estates.
- 67. Deputy for official receiver.
- 68. Status of official receiver.
- 69. Duties of official receiver as regards the debtor's conduct.
- 70. Duties of official receiver as to debtor's estate.
- 71. Power for Board of Trade to appoint officers.

PART V.

TRUSTEES IN BANKRUPTCY.

Remuneration of Trustee.

- 72. Remuneration of trustee.

Costs.

- 73. Allowance and taxation of costs.

Receipts, Payments, Accounts, Audit.

- 74. Payment of money into Bank of England.
- 75. Trustee not to pay into private account.
- 76. Investment of surplus funds.
- 77. Certain receipts and fees to be applied in aid of expenditure.
- 78. Audit of trustee's accounts.
- 79. The trustee to furnish list of creditors.
- 80. Books to be kept by trustee.
- 81. Annual statement of proceedings.

Release of Trustee.

SECTIONS.

82. Release of trustee.

Official Name.

83. Official name of trustee.

Appointment and Removal.

84. Power to appoint joint or successive trustees.
85. Office of trustee vacated by insolvency.
86. Removal of trustee.
87. Proceedings in case of vacancy in office of trustee.

Voting Powers of Trustee.

88. Limitation of voting powers of trustee.

Control over Trustee.

89. Discretionary powers of trustee and control thereof.
90. Appeal to Court against trustee.
91. Control of Board of Trade over trustees.
-

PART VI.

CONSTITUTION, PROCEDURE, AND POWERS OF COURT.

Jurisdiction.

92. Jurisdiction to be exercised by High Court and county courts.
93. Consolidation of London Bankruptcy Court with Supreme Court of Judicature.
94. Transaction of bankruptcy business by special judge of High Court.
95. Petition, where to be presented.
96. Definition of the London Bankruptcy district.
97. Transfer of proceedings from court to court.
98. Exercise in Chambers of High Court jurisdiction.
99. Jurisdiction in bankruptcy of registrar.
100. Powers of county court.

SECTIONS.

- 101. Board of Trade to make payments in accordance with directions of Court.
- 102. General power of bankruptcy courts.

Judgment Debtors.

- 103. Judgment debtor's summons to be bankruptcy business.

Appeals.

- 104. Appeals in bankruptcy.

Procedure.

- 105. Discretionary powers of the Court.
- 106. Consolidation of petitions.
- 107. Power to change carriage of proceedings.
- 108. Continuance of proceedings on death of debtor.
- 109. Power to stay proceedings.
- 110. Power to present petition against one partner.
- 111. Power to dismiss petition against some respondents only.
- 112. Property of partners to be vested in same trustee.
- 113. Actions by trustee and bankrupt's partners.
- 114. Actions on joint contracts.
- 115. Proceedings in partnership name.

Officers.

- 116. Disabilities of officers.

Orders and Warrants of Court.

- 117. Enforcement of orders of courts throughout the United Kingdom.
- 118. Courts to be auxiliary to each other.
- 119. Warrants of bankruptcy courts.
- 120. Commitment to prison.

PART VII.

SMALL BANKRUPTCIES.

- 121. Summary administration in small cases.
- 122. Power for county court to make administration order instead of order for payment by instalments.

PART VIII.

SUPPLEMENTAL PROVISIONS.

Application of Act.

SECTIONS.

- 123. Exclusion of partnerships and companies.
- 124. Privilege of Parliament.
- 125. Administration in bankruptcy of estate of person dying insolvent.
- 126. Saving as to debts contracted before Act of 1861.

General Rules.

- 127. Power to make general rules.

Fees, Salaries, Expenditure and Returns.

- 128. Fees and remuneration.
- 129. Judicial salaries, &c.
- 130. Annual accounts of receipts and expenditure in respect of bankruptcy proceedings.
- 131. Returns by bankruptcy officers.

Evidence.

- 132. "Gazette" to be evidence.
- 133. Evidence of proceedings at meetings of creditors.
- 134. Evidence of proceedings in bankruptcy.
- 135. Swearing of affidavits.
- 136. Death of witness.
- 137. Bankruptcy courts to have seals.
- 138. Certificate of appointment of trustee.
- 139. Appeal from Board of Trade to High Court.
- 140. Proceeding of Board of Trade.

Time.

- 141. Computation of time.

Notices.

- 142. Service of notices.

Formal Defects.

- 143. Formal defect not to invalidate proceedings.

SECTIONS.

Stamp Duty.

144. Exemption of deeds, &c., from stamp duty.

Executions.

145. Sales under executions to be public.
146. Writ of elegit not to extend to goods.

Bankrupt Trustee.

147. Application of Trustee Act to bankruptcy of trustee.

Corporations, &c.

148. Acting of corporations, partners, &c.

Construction of former Acts, &c.

149. Construction of Acts mentioning commission of bankruptcy, &c.
150. Certain provisions to bind the Crown.
151. Saving for existing rights of audience.
152. Married women.

Transitory Provisions.

153. Comptroller of bankruptcy and his staff.
154. Power to abolish existing offices.
155. Performance of new duties by persons whose offices are abolished.
156. Selection of persons from holders of abolished offices.
157. Acceptance of public employment by annuitants.
158. Superannuation of registrars, &c.
159. Transfer of estates on vacancy of office of trustee in liquidation under the Bankruptcy Act, 1869.
160. Transfer of outstanding property on close of bankruptcy or liquidation.
161. Transfer of estates from Registrars of London Court to official receiver.

Unclaimed Funds or Dividends.

162. Unclaimed and undistributed dividends or funds under this and former Acts.

Punishment of Fraudulent Debtors.

SECTIONS.

163. Extension of penal provisions of 32 & 33 Vict., c. 62., to petitioning debtors, &c.
164. Power for Court to order prosecution on report of official receiver.
165. Power for Court to commit for trial.
166. Public Prosecutor to act in certain cases.
167. Criminal liability after discharge or composition.

Interpretation.

168. Interpretation of terms.

Repeal.

169. Repeal of enactments.
170. Proceedings under 32 & 33 Vict., c. 71, ss. 125, 126.

Schedules.

- Schedule I.—Meetings of creditors.
- Schedule II.—Proof of debts.
- Schedule III.—List of Metropolitan County Courts.
- Schedule IV.—Statutes relating to unclaimed dividends.
- Schedule V.—Repeals.

THE BANKRUPTCY ACT,

1883.

(46 & 47 VICT., C. 52.)

[The side references in square brackets refer to the corresponding sections of the Bankruptcy Act, 1869.]

An Act to Amend and Consolidate the Law of Bankruptcy.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Preliminary.

1. This Act may be cited as the Bankruptcy Act, 1883. Short Title.

2. This Act shall not, except so far as is expressly provided, extend to Scotland or Ireland. Extent of Act.
[B. A. 69. s. 2.]

See ss. 27, 32 and 117—119.

3. This Act shall, except as by this Act otherwise provided, commence and come into operation from and immediately after the thirty-first day of December, one thousand eight hundred and eighty-three. Commencement of Act.

See ss. 66, 127, 128, 129, 153, 162, and 170, which come into operation on the passing of the Act.

PART I.

PROCEEDINGS FROM ACT OF BANKRUPTCY TO
DISCHARGE.*Acts of Bankruptcy.*Acts of
Bankruptcy.

[B. A. 69, s. 6.]

4. (1.) A debtor commits an act of bankruptcy in each of the following cases :—

- (a.) If in England or elsewhere he makes a conveyance or assignment of his property to a trustee or trustees for the benefit of his creditors generally :
- (b.) If in England or elsewhere he makes a fraudulent conveyance, gift, delivery, or transfer of his property, or any part thereof :
- (c.) If in England or elsewhere he makes any conveyance or transfer of his property, or any part thereof, or creates any charge thereon, which would under this or any other Act be void as a fraudulent preference if he were adjudged bankrupt :
- (d.) If with intent to defeat or delay his creditors he does any of the following things, namely, departs out of England, or being out of England remains out of England, or departs from his dwelling-house, or otherwise absents himself, or begins to keep house :
- (e.) If execution issued against him has been levied by seizure and sale of his goods under process in an action in any court, or in any civil proceeding in the High Court :
- (f.) If he files in the Court a declaration of his

inability to pay his debts, or presents a bankruptcy petition against himself :

- (g.) If a creditor has obtained a final judgment against him for any amount, and execution thereon not having been stayed, has served on him in England, or, by leave of the Court, elsewhere, a bankruptcy notice under this Act, requiring him to pay the judgment debt in accordance with the terms of judgment, or to secure or compound for it to the satisfaction of the creditor or the Court, and he does not, within seven days after service of the notice, in case the service is effected in England, and in case the service is effected elsewhere, then within the time limited in that behalf by the order giving leave to effect the service either comply with the requirements of the notice, or satisfy the Court that he has a counter-claim set-off or cross demand which equals or exceeds the amount of the judgment debt, and which he could not set up in the action in which the judgment was obtained :

This procedure is in substitution for the procedure by debtors' summons. As to arrest of debtor after issue of a bankruptcy notice see s. 25.

- (h.) If the debtor gives notice to any of his creditors that he has suspended, or that he is about to suspend, payment of his debts.

(2.) A bankruptcy notice under this Act shall be in the prescribed form, and shall state the consequences of non-compliance therewith, and shall be served in the prescribed manner.

See "available act of bankruptcy," defined by s. 168. See, too, s. 103 (5) and s. 25.

Receiving Order.

Jurisdiction to
make receiving
order.

5. Subject to the conditions hereinafter specified, if a debtor commits an act of bankruptcy the Court may, on a bankruptcy petition being presented, either by a creditor or by the debtor, make an order, in this Act called a receiving order, for the protection of the estate.

For the conditions referred to see ss. 6 and 7. For a power to annul the order see s. 14.

Conditions on
which creditor
may petition.

[B. A. 69, s. 6.]

6. (1.) A creditor shall not be entitled to present a bankruptcy petition against a debtor unless—

- (a.) The debt owing by the debtor to the petitioning creditor, or, if two or more creditors join in the petition, the aggregate amount of debts owing to the several petitioning creditors, amounts to fifty pounds, and
- (b.) The debt is a liquidated sum, payable either immediately or at some certain future time, and
- (c.) The act of bankruptcy on which the petition is grounded has occurred within three months before the presentation of the petition, and
- (d.) The debtor is domiciled in England, or within a year before the date of the presentation of the petition has ordinarily resided or had a dwelling-house or place of business in England.

This last condition was inserted at the instance of the Scotch members.

(2.) If the petitioning creditor is a secured creditor, he must, in his petition, either state that he is willing to give up his security for the benefit of the creditors

in the event of the debtor being adjudged bankrupt, or give an estimate of the value of his security. In the latter case, he may be admitted as a petitioning creditor to the extent of the balance of the debt due to him, after deducting the value so estimated in the same manner as if he were an unsecured creditor.

7. (1.) A creditor's petition shall be verified by affidavit (of the creditor, or of some person on his behalf, having knowledge of the facts), and served in the prescribed manner.

Proceedings
and order on
creditor's
petition.

[B. A. 69, ss. 8,
9, 80.]

(2.) At the hearing the Court shall require proof of the debt of the petitioning creditor, of the service of the petition, and of the act of bankruptcy, or, if more than one act of bankruptcy is alleged in the petition, of some one of the alleged acts of bankruptcy, and, if satisfied with the proof, may make a receiving order in pursuance of the petition.

(3.) If the Court is not satisfied with the proof of the petitioning creditor's debt, or of the act of bankruptcy, or of the service of the petition, or is satisfied by the debtor that he is able to pay his debts, or that for other sufficient cause no order ought to be made, the Court may dismiss the petition.

(4.) When the act of bankruptcy relied on is non-compliance with a bankruptcy notice to pay, secure or compound for a judgment debt, the Court may, if it thinks fit, stay or dismiss the petition on the ground that an appeal is pending from the judgment.

(5.) Where the debtor appears on the petition, and denies that he is indebted to the petitioner, or that he is indebted to such an amount as would justify the petitioner in presenting a petition against him, the Court, on such security (if any) being given as the Court may

require for payment to the petitioner of any debt which may be established against him in due course of law, and of the costs of establishing the debt, may, instead of dismissing the petition, stay all proceedings on the petition for such time as may be required for trial of the question relating to the debt.

(6.) Where proceedings are stayed, the Court may, if by reason of the delay caused by the stay of proceedings or for any other cause it thinks just, make a receiving order on the petition of some other creditor, and shall thereupon dismiss, on such terms as it thinks just, the petition in which proceedings have been stayed as aforesaid.

(7.) A creditor's petition shall not, after presentment, be withdrawn without the leave of the Court.

As to the power of the Court over costs see s. 105. See as to procedure ss. 106 to 113.

Debtor's petition and order thereon.

8. (1.) A debtor's petition shall allege that the debtor is unable to pay his debts, and the presentation thereof shall be deemed an act of bankruptcy without the previous filing by the debtor of any declaration of inability to pay his debts, and the Court shall thereupon make a receiving order.

(2.) A debtor's petition shall not, after presentment, be withdrawn without the leave of the Court.

Effect of receiving order.

[B. A. 69, ss. 12, 13.]

9. (1.) On the making of a receiving order an official receiver shall be thereby constituted receiver of the property of the debtor, and thereafter, except as directed by this Act, no creditor to whom the debtor is indebted in respect of any debt provable in bankruptcy shall have any remedy against the property or person of the debtor in respect of the debt, or

shall commence any action or other legal proceedings unless with the leave of the Court, and on such terms as the Court may impose.

See s. 66 as to the official receiver.

(2.) But this section shall not affect the power of any secured creditor to realise or otherwise deal with his security in the same manner as he would have been entitled to realise or deal with it if this section had not been passed.

See "secured creditor" defined by s. 168. As to his vote see Sched. I. ss. 10-12. As to his proof see Sched. II.

10. (1.) The Court may, if it is shown to be necessary for the protection of the estate, at any time after the presentation of a bankruptcy petition, and before a receiving order is made, appoint the official receiver to be interim receiver of the property of the debtor, or of any part thereof, and direct him to take immediate possession thereof or of any part thereof.

Discretionary powers as to appointment of receiver and stay of proceedings.

[B. A. 69, s. 13.]

(2.) The Court may at any time after the presentation of a bankruptcy petition stay any action, execution or other legal process against the property or person of the debtor, and any Court in which proceedings are pending against a debtor may, on proof that a bankruptcy petition has been presented by or against the debtor, either stay the proceedings or allow them to continue on such terms as it may think just.

11. Where the Court makes an order staying any action or proceeding, or staying proceedings generally, the order may be served by sending a copy thereof, under the seal of the Court, by prepaid post letter to the address for service of the plaintiff or other party prosecuting such proceeding.

Service of order staying proceedings.

Power to
appoint special
manager.

12. (1.) The official receiver of a debtor's estate may, on the application of any creditor or creditors, and if satisfied that the nature of the debtor's estate or business or the interests of the creditors generally require the appointment of a special manager of the estate or business other than the official receiver, appoint a manager thereof accordingly to act until a trustee is appointed, and with such powers (including any of the powers of a receiver) as may be entrusted to him by the official receiver.

(2.) The special manager shall give security and account in such manner as the Board of Trade may direct.

(3.) The special manager shall receive such remuneration as the creditors may, by resolution at an ordinary meeting, determine, or in default of any such resolution, as may be prescribed.

Advertisement
of receiving
order.

[B. A. 69, s. 10.]

13. Notice of every receiving order, stating the name, address and description of the debtor, the date of the order, the Court by which the order is made, and the date of the petition, shall be gazetted and advertised in a local paper in the prescribed manner.

Power to Court
to annul receiv-
ing order in
certain cases.

14. If in any case where a receiving order has been made on a bankruptcy petition it shall appear to the Court by which such order was made, upon an application by the official receiver, or any creditor or other person interested, that a majority of the creditors in number and value are resident in Scotland or in Ireland, and that from the situation of the property of the debtor, or other causes, his estate and effects ought to be distributed among the creditors under the Bankrupt or Insolvent Laws of Scotland or Ireland, the said

Court, after such inquiry as to it shall seem fit, may rescind the receiving order and stay all proceedings on, or dismiss the petition upon such terms, if any, as the Court may think fit.

As to annulling an adjudication see s. 35.

Proceedings consequent on Order.

15. (1.) As soon as may be after the making of a receiving order against a debtor a general meeting of his creditors (in this Act referred to as the first meeting of creditors) shall be held for the purpose of considering whether a proposal for a composition or scheme of arrangement shall be entertained, or whether it is expedient that the debtor shall be adjudged bankrupt, and generally as to the mode of dealing with the debtor's property.

First and other meetings of creditors.

[B. A. 69, ss. 14, 16.]

(2.) With respect to the summoning of and proceedings at the first and other meetings of creditors, the rules in the First Schedule shall be observed.

16. (1.) Where a receiving order is made against a debtor, he shall make out and submit to the official receiver a statement of and in relation to his affairs in the prescribed form, verified by affidavit, and showing the particulars of the debtor's assets, debts and liabilities, the names, residences and occupations of his creditors, the securities held by them respectively, the dates when the securities were respectively given, and such further or other information as may be prescribed or as the official receiver may require.

Debtor's statement of affairs.
[B. A. 69, s. 19.]

(2.) The statement shall be so submitted within the following times, namely :

(i.) If the order is made on the petition of the debtor, within three days from the date of the order.

(ii.) If the order is made on the petition of a creditor within seven days from the date of the order.

But the Court may, in either case, for special reasons extend the time.

(3.) If the debtor fails, without reasonable excuse, to comply with the requirements of this section, the Court may, on the application of the official receiver, or of any creditor, adjudge him bankrupt.

(4.) Any person stating himself in writing to be a creditor of the bankrupt may, personally or by agent, inspect this statement at all reasonable times, and take any copy thereof or extract therefrom, but any person untruthfully so stating himself to be a creditor shall be guilty of a contempt of court, and shall be punishable accordingly on the application of the trustee or official receiver.

Public Examination of Debtor.

Public examina-
tion of debtor.

[B. A. 69, s. 19.]

17. (1.) Where the Court makes a receiving order it shall hold a public sitting, on a day to be appointed by the Court, for the examination of the debtor, and the debtor shall attend thereat, and shall be examined as to his conduct, dealings and property.

(2.) The examination shall be held as soon as conveniently may be after the expiration of the time for the submission of the debtor's statement of affairs.

(3.) The Court may adjourn the examination from time to time.

(4.) Any creditor who has tendered a proof, or his representative authorised in writing, may question the debtor concerning his affairs and the causes of his failure.

(5.) The official receiver shall take part in the examination of the debtor ; and for the purpose thereof, if specially authorised by the Board of Trade, may employ a solicitor with or without counsel.

(6.) If a trustee is appointed before the conclusion of the examination he may take part therein.

(7.) The Court may put such questions to the debtor as it may think expedient.

(8.) The debtor shall be examined upon oath, and it shall be his duty to answer all such questions as the Court may put or allow to be put to him. Such notes of the examination as the Court thinks proper shall be taken down in writing, and shall be read over to and signed by the debtor, and may thereafter be used in evidence against him ; they shall also be open to the inspection of any creditor at all reasonable times.

(9.) When the Court is of opinion that the affairs of the debtor have been sufficiently investigated, it shall, by order, declare that his examination is concluded, but such order shall not be made until after the day appointed for the first meeting of creditors.

See s. 105 (6) for an exemption.

Composition or Scheme of Arrangement.

18. (1.) The creditors may at the first meeting or any adjournment thereof, by special resolution, resolve to entertain a proposal for a composition in satisfaction of the debts due to them from the debtor, or a proposal for a scheme of arrangement of the debtor's affairs.

Power for creditors to accept and Court to approve composition or arrangement.

[B. A. 69, ss. 2, 128.]

See "special resolution" defined by s. 168.

(2.) The composition or scheme shall not be binding on the creditors unless it is confirmed by a resolution

passed (by a majority in number representing three-fourths in value of all the creditors who have proved) at a subsequent meeting of the creditors, and is approved by the Court.

Any creditor who has proved his debt may assent to or dissent from such composition or scheme by a letter addressed to the official receiver in the prescribed form, and attested by a witness, so as to be received by such official receiver not later than the day preceding such subsequent meeting, and such creditor shall be taken as being present and voting at such meeting.

(3.) The subsequent meeting shall be summoned by the official receiver by not less than seven days' notice, and shall not be held until after the public examination of the debtor is concluded. The notice shall state generally the terms of the proposal, and shall be accompanied by a report of the official receiver thereon.

But see s. 105 (6) as to public examination.

(4.) The debtor or the official receiver may, after the composition or scheme is accepted by the creditors, apply to the Court to approve it, and notice of the time appointed for hearing the application shall be given to each creditor who has proved.

(5.) The Court shall, before approving a composition or scheme, hear a report of the official receiver as to the terms of the composition or scheme and as to the conduct of the debtor, and any objections which may be made by or on behalf of any creditor.

(6.) If the Court is of opinion that the terms of the composition or scheme are not reasonable, or are not calculated to benefit the general body of creditors, or in any case in which the Court is required under this Act where the debtor is adjudged bankrupt to refuse his

discharge, the Court shall, or if any such facts are proved as would under this Act justify the Court in refusing, qualifying, or suspending the debtor's discharge, the Court may, in its discretion, refuse to approve the composition or scheme.

(7.) If the Court approves the composition or scheme, the approval may be testified by the seal of the Court being attached to the instrument containing the terms of the composition or scheme, or by the terms being embodied in an order of the Court.

(8.) A composition or scheme accepted and approved in pursuance of this section shall be binding on all the creditors so far as relates to any debts due to them from the debtor and provable in bankruptcy.

As to "provable debts" see s. 37.

(9.) A certificate of the official receiver that a composition or scheme has been duly accepted and approved shall, in the absence of fraud, be conclusive as to its validity. [B. A. 69, s. 127.]

(10.) The provisions of a composition or scheme under this section may be enforced by the Court on application by any person interested, and any disobedience of an order of the Court made on the application shall be deemed a contempt of Court.

(11.) If default is made in payment of any instalment due in pursuance of the composition or scheme, or if it appears to the Court, on satisfactory evidence, that the composition or scheme cannot, in consequence of legal difficulties, or for any sufficient cause, proceed without injustice or undue delay to the creditors or to the debtor, or that the approval of the Court was obtained by fraud, the Court may, if it thinks fit, on application by any creditor, adjudge the debtor bankrupt, and [B. A. 69, s. 128.]

annul the composition or scheme, but without prejudice to the validity of any sale, disposition, or payment duly made, or thing duly done under or in pursuance of the composition or scheme. Where a debtor is adjudged bankrupt under this sub-section any debt provable in other respects, which has been contracted before the date of the adjudication, shall be provable in the bankruptcy.

(12.) If, under or in pursuance of a composition or scheme, a trustee is appointed to administer the debtor's property or manage his business, Part V. of this Act shall apply to the trustee as if he were a trustee in a bankruptcy, and as if the terms "bankruptcy," "bankrupt," and "order of adjudication" included respectively a composition or scheme of arrangement, a compounding or arranging debtor, and order approving the composition or scheme.

(13.) Part III. of this Act shall, so far as the nature of the case and the terms of the composition or scheme admit, apply thereto, the same interpretation being given to the words "trustee," "bankruptcy," "bankrupt," and "order of adjudication," as in the last preceding sub-section.

(14.) No composition or scheme shall be approved by the Court which does not provide for the payment in priority to other debts of all debts directed to be so paid in the distribution of the property of a bankrupt.

See ss. 40, 41, as to priorities.

(15.) The acceptance by a creditor of a composition or scheme shall not release any person who under this Act would not be released by an order of discharge if the debtor had been adjudged bankrupt.

This refers to persons other than the debtor, *e.g.*, to sureties, see s. 30 (4).

19. Notwithstanding the acceptance and approval of a composition or scheme, such composition or scheme shall not be binding on any creditor so far as regards a debt or liability from which, under the provisions of this Act, a debtor would not be discharged by an order of discharge in bankruptcy, unless the creditor assents to the composition or scheme.

Effect of composition or scheme.

See s. 30 as to such debts or liabilities.

Adjudication of Bankruptcy.

20. (1.) When a receiving order is made against a debtor then, if the creditors at the first meeting or any adjournment thereof by ordinary resolution resolve that the debtor be adjudged bankrupt, or pass no resolution, or if the creditors do not meet, or if a composition or scheme is not accepted or approved in pursuance of this Act within fourteen days after the conclusion of the examination of the debtor or such further time as the Court may allow, the Court shall adjudge the debtor bankrupt; and thereupon the property of the bankrupt shall become divisible among his creditors and shall vest in a trustee.

Adjudication of bankruptcy where composition not accepted or approved.

[B. A. 69, ss. 14, 17.]

See, too, s. 16 (3) as to adjudication.

(2.) Notice of every order adjudging a debtor bankrupt, stating the name, address, and description of the bankrupt, the date of the adjudication, and the Court by which the adjudication is made, shall be gazetted and advertised in a local paper in the prescribed manner, and the date of the order shall for the purposes of this Act be the date of the adjudication.

21. (1.) Where a debtor is adjudged bankrupt, or the creditors have resolved that he be adjudged bank-

Appointment of trustee.

[B. A. 69, ss. 14, 17, 18.]

rupt, the creditors may, by ordinary resolution, appoint some fit person, whether a creditor or not, to fill the office of trustee of the property of the bankrupt; or they may resolve to leave his appointment to the committee of inspection hereinafter mentioned.

(2.) The person so appointed shall give security in manner prescribed to the satisfaction of the Board of Trade, and the Board, if satisfied with the security, shall certify that his appointment has been duly made, unless they object to the appointment on the ground that it has not been made in good faith by a majority in value of the creditors voting, or that the person appointed is not fit to act as trustee, or that his connection with or relation to the bankrupt or his estate or any particular creditor makes it difficult for him to act with impartiality in the interests of the creditors generally.

(3.) Provided that where the Board make any such objection they shall, if so requested by a majority in value of the creditors, notify the objection to the High Court, and thereupon the High Court may decide on its validity.

(4.) The appointment of a trustee shall take effect as from the date of the certificate.

(5.) The official receiver shall not, save as by this Act provided, be the trustee of the bankrupt's property.

(6.) If a trustee is not appointed by the creditors within four weeks from the date of the adjudication, or, in the event of negotiations for a composition or scheme being pending at the expiration of those four weeks, then within seven days from the close of those negotiations by the refusal of the creditors to accept, or of the

Court to approve, the composition or scheme, the official receiver shall report the matter to the Board of Trade, and thereupon the Board of Trade shall appoint some fit person to be trustee of the bankrupt's property, and shall certify the appointment.

(7.) Provided that the creditors or the committee of inspection (if so authorised by resolution of the creditors) may, at any subsequent time, if they think fit, appoint a trustee, and on the appointment being made and certified, the person appointed shall become trustee in the place of the person appointed by the Board of Trade.

(8.) When a debtor is adjudged bankrupt after the first meeting of creditors has been held, and a trustee has not been appointed prior to the adjudication, the official receiver shall forthwith summon a meeting of creditors for the purpose of appointing a trustee.

As to the trustee see further ss. 72 to 91.

22. (1.) The creditors, qualified to vote, may at their first or any subsequent meeting, by resolution, appoint from among the creditors qualified to vote, or the holders of general proxies or general powers of attorney from such creditors, a committee of inspection for the purpose of superintending the administration of the bankrupt's property by the trustee. The committee of inspection shall consist of not more than five nor less than three persons.

Committee of inspection.

[B. A. 69, ss. 14, 20, 83.]

(2.) The committee of inspection shall meet at such times as they shall from time to time appoint, and failing such appointment, at least once a month; and the trustee or any member of the committee may also call a meeting of the committee as and when he thinks necessary.

(3.) The committee may act by a majority of their members present at a meeting, but shall not act unless a majority of the committee are present at the meeting.

(4.) Any member of the committee may resign his office by notice in writing signed by him, and delivered to the trustee.

(5.) If a member of the committee becomes bankrupt or compounds or arranges with his creditors, or is absent from five consecutive meetings of the committee, his office shall thereupon become vacant.

(6.) Any member of the committee may be removed by an ordinary resolution at any meeting of creditors of which seven days' notice has been given, stating the object of the meeting.

(7.) On a vacancy occurring in the office of a member of the committee, the trustee shall forthwith summon a meeting of creditors for the purpose of filling the vacancy, and the meeting may, by resolution, appoint another creditor or other person eligible as above to fill the vacancy.

(8.) The continuing members of the committee, provided there be not less than two such continuing members, may act notwithstanding any vacancy in their body; and where the number of members of the committee of inspection is for the time being less than five, the creditors may increase that number so that it do not exceed five.

(9.) If there be no committee of inspection, any act or thing or any direction or permission by this Act authorised or required to be done or given by the committee may be done or given by the Board of Trade on the application of the trustee.

creditors may, if they think fit, at any time after the adjudication, by special resolution, resolve to entertain a proposal for a composition in satisfaction of the debts due to them under the bankruptcy, or for a scheme of arrangement of the bankrupt's affairs; and thereupon the same proceedings shall be taken and the same consequences shall ensue as in the case of a composition or scheme accepted before adjudication.

scheme after
bankruptcy
adjudication.

[B. A. 69, s. 28.]

As to composition before adjudication see s. 18.

(2.) If the Court approves the composition or scheme it may make an order annulling the bankruptcy and vesting the property of the bankrupt in him or in such other person as the Court may appoint, on such terms, and subject to such conditions, if any, as the Court may declare.

(3.) If default is made in payment of any instalment due in pursuance of the composition or scheme, or if it appears to the Court that the composition or scheme cannot proceed without injustice or undue delay, or that the approval of the Court was obtained by fraud, the Court may, if it thinks fit, on application by any person interested, adjudge the debtor bankrupt, and annul the composition or scheme, but without prejudice to the validity of any sale, disposition, or payment duly made, or thing duly done, under or in pursuance of the composition or scheme. Where a debtor is adjudged bankrupt under this sub-section, all debts, provable in other respects, which have been contracted before the date of such adjudication shall be provable in the bankruptcy.

Control over Person and Property of Debtor.

24. (1.) Every debtor against whom a receiving order

Duties of
debtor as to

discovery and
realisation of
property.

[B. A. 69, s. 19.]

is made shall, unless prevented by sickness or other sufficient cause, attend the first meeting of his creditors, and shall submit to such examination and give such information as the meeting may require.

(2.) He shall give such inventory of his property, such list of his creditors and debtors, and of the debts due to and from them respectively, submit to such examination in respect of his property or his creditors, attend such other meetings of his creditors, wait at such times on the official receiver, special manager, or trustee, execute such powers of attorney, conveyances, deeds, and instruments, and generally do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors, as may be reasonably required by the official receiver, special manager, or trustee, or may be prescribed by general rules, or be directed by the Court by any special order or orders made in reference to any particular case, or made on the occasion of any special application by the official receiver, special manager, trustee, or any creditor or person interested.

(3.) He shall, if adjudged bankrupt, aid, to the utmost of his power, in the realisation of his property and the distribution of the proceeds among his creditors.

(4.) If a debtor wilfully fails to perform the duties imposed on him by this section, or to deliver up possession of any part of his property, which is divisible amongst his creditors under this Act, and which is for the time being in his possession or under his control, to the official receiver or to the trustee, or to any person authorised by the Court to take possession of it, he shall, in addition to any other punishment to which he may be subject, be guilty of a contempt of court, and may be punished accordingly.

25. (1.) The Court may, by warrant addressed to any constable or prescribed officer of the Court, cause a debtor to be arrested, and any books, papers, money, and goods in his possession to be seized, and him and them to be safely kept as prescribed until such time as the Court may order under the following circumstances :

Arrest of debtor under certain circumstances.

[B. A. 69, s. 86,
33 & 34 Vict.
c. 76.]

- (a.) If after a bankruptcy notice has been issued under this Act, or after presentation of a bankruptcy petition by or against him, it appears to the Court that there is probable reason for believing that he is about to abscond with a view of avoiding payment of the debt in respect of which the bankruptcy notice was issued, or of avoiding service of a bankruptcy petition, or of avoiding appearance to any such petition, or of avoiding examination in respect of his affairs, or of otherwise avoiding, delaying, or embarrassing proceedings in bankruptcy against him.
- (b.) If, after presentation of a bankruptcy petition by or against him, it appears to the Court that there is probable cause for believing that he is about to remove his goods with a view of preventing or delaying possession being taken of them by the official receiver or trustee, or that there is probable ground for believing that he has concealed or is about to conceal or destroy any of his goods, or any books, documents, or writings, which might be of use to his creditors in the course of his bankruptcy.
- (c.) If after service of a bankruptcy petition on him, or after a receiving order is made against him, he removes any goods in his possession above

the value of five pounds, without the leave of the official receiver or trustee.

- (d.) If, without good cause shown, he fails to attend any examination ordered by the Court: Provided that no arrest upon a bankruptcy notice shall be valid and protected unless the debtor before or at the time of his arrest shall be served with such bankruptcy notice.

Provided that no arrest upon a bankruptcy notice shall be valid and protected unless the debtor before or at the time of his arrest shall be served with such bankruptcy notice.

(2.) No payment or composition made or security given after arrest made under this section shall be exempt from the provisions of this Act relating to fraudulent preferences.

As to fraudulent preferences, see s. 48.

Re-direction of
debtor's letters.
[B. A. 69, s. 85.]

26. Where a receiving order is made against a debtor, the Court, on the application of the official receiver or trustee, may from time to time order that for such time not exceeding three months, as the Court thinks fit, post letters addressed to the debtor at any place, or places mentioned in the order for re-direction, shall be re-directed, sent or delivered by the Postmaster-General, or the officers acting under him, to the official receiver, or the trustee, or otherwise as the Court directs, and the same shall be done accordingly.

Discovery of
debtor's
property.

[B. A. 69, ss. 96,
97, 98.]

27. (1.) The Court may, on the application of the official receiver or trustee, at any time after a receiving order has been made against a debtor, summon before it the debtor or his wife, or any person known or suspected to have in his possession any of the estate or

effects belonging to the debtor, or supposed to be indebted to the debtor, or any person whom the Court may deem capable of giving information respecting the debtor, his dealings or property, and the Court may require any such person to produce any documents in his custody or power relating to the debtor, his dealings or property.

(2.) If any person so summoned, after having been tendered a reasonable sum, refuses to come before the Court at the time appointed, or refuses to produce any such document, having no lawful impediment made known to the Court at the time of its sitting and allowed by it, the Court may, by warrant, cause him to be apprehended and brought up for examination.

(3.) The Court may examine on oath, either by word of mouth or by written interrogatories, any person so brought before it concerning the debtor, his dealings or property.

(4.) If any person on examination before the Court admits that he is indebted to the debtor, the Court may, on the application of the official receiver or trustee, order him to pay to the receiver or trustee, at such time and in such manner as to the Court seems expedient, the amount admitted, or any part thereof, either in full discharge of the whole amount in question or not, as the Court thinks fit, with or without costs of the examination.

(5.) If any person on examination before the Court admits that he has in his possession any property belonging to the debtor, the Court may, on the application of the official receiver or trustee, order him to deliver to the official receiver or trustee such property, or any part thereof, at such time, and in such manner, and on such terms as to the Court may seem just.

(6.) The Court may, if it think fit, order that any person who if in England would be liable to be brought before it under this section shall be examined in Scotland or Ireland, or in any other place out of England.

Discharge of Bankrupt.

Discharge of
bankrupt.

[B. A. 69, s. 48.]

28. (1). A bankrupt may, at any time after being adjudged bankrupt, apply to the Court for an order of discharge, and the Court shall appoint a day for hearing the application, but the application shall not be heard until the public examination of the bankrupt is concluded. The application shall be heard in open Court.

[32 & 33 Vict.
c. 62.]

(2.) On the hearing of the application the Court shall take into consideration a report of the official receiver as to the bankrupt's conduct and affairs, and may either grant or refuse an absolute order of discharge, or suspend the operation of the order for a specified time, or grant an order of discharge subject to any conditions with respect to any earnings or income which may afterwards become due to the bankrupt, or with respect to his after-acquired property: Provided that the Court shall refuse the discharge in all cases where the bankrupt has committed any misdemeanour under this Act, or Part II. of the Debtors Act, 1869, or any amendment thereof, and shall, on proof of any of the facts hereinafter mentioned, either refuse the order, or suspend the operation of the order for a specified time, or grant an order of discharge, subject to such conditions as aforesaid.

(3). The facts hereinbefore referred to are—

(a). That the bankrupt has omitted to keep such books of account as are usual and proper in

the business carried on by him and as sufficiently disclose his business transactions and financial position within the three years immediately preceding the bankruptcy.

(b.) That the bankrupt has continued to trade after knowing himself to be insolvent.

(c.) That the bankrupt has contracted any debt provable in the bankruptcy, without having at the time of contracting it any reasonable or probable ground of expectation (proof whereof shall lie on him) of being able to pay it.

(d.) That the bankrupt has brought on his bankruptcy by rash and hazardous speculations or unjustifiable extravagance in living.

(e.) That the bankrupt has put any of his creditors to unnecessary expense by a frivolous or vexatious defence to any action properly brought against him.

(f.) That the bankrupt has within three months preceding the date of the receiving order, when unable to pay his debts as they become due, given an undue preference to any of his creditors.

(g.) That the bankrupt has on any previous occasions been adjudged bankrupt, or made a statutory composition or arrangement with his creditors.

(h.) That the bankrupt has been guilty of any fraud or fraudulent breach of trust.

(4.) For the purposes of this section the report of the official receiver shall be *prima facie* evidence of the statements therein contained.

(5.) Notice of the appointment by the Court of the day for hearing the application for discharge shall be

published in the prescribed manner and sent fourteen days at least before the day so appointed to each creditor who has proved, and the Court may hear the official receiver and the trustee, and may also hear any creditor. At the hearing the Court may put such questions to the debtor and receive such evidence as it may think fit.

(6.) The Court may, as one of the conditions referred to in this section, require the bankrupt to consent to judgment being entered against him by the official receiver or trustee for any balance of the debts provable under the bankruptcy which is not satisfied at the date of his discharge; but in such case execution shall not be issued on the judgment without leave of the Court, which leave may be given on proof that the bankrupt has since his discharge acquired property or income available for payment of his debts.

(7.) A discharged bankrupt shall, notwithstanding his discharge, give such assistance as the trustee may require in the realization and distribution of such of his property as is vested in the trustee, and if he fails to do so he shall be guilty of a contempt of Court; and the Court may also, if he thinks fit, revoke his discharge; but without prejudice to the validity of any sale, disposition or payment duly made or thing duly done subsequent to the discharge but before its revocation.

Fraudulent
settlements.

29. In either of the following cases; that is to say,

- (1.) In the case of a settlement made before and in consideration of marriage where the settlor is not at the time of making the settlement able to pay all his debts without the aid of the property comprised in the settlement; or

- (2.) In the case of any covenant or contract made in consideration of marriage for the future settlement on or for the settlor's wife or children of any money or property wherein he had not at the date of his marriage any estate or interest (not being money or property of or in right of his wife);

If the settlor is adjudged bankrupt or compounds or arranges with his creditors, and it appears to the Court that such settlement, covenant, or contract was made in order to defeat or delay creditors, or was unjustifiable having regard to the state of the settlor's affairs at the time when it was made, the Court may refuse or suspend an order of discharge, or grant an order subject to conditions, or refuse to approve a composition or arrangement, as the case may be, in like manner as in cases where the debtor has been guilty of fraud.

30. (1.) An order of discharge shall not release the bankrupt from any debt on a recognizance, nor from any debt with which the bankrupt may be chargeable at the suit of the Crown or of any person for any offence against a statute relating to any branch of the public revenue, or at the suit of the sheriff or other public officer on a bail bond entered into for the appearance of any person prosecuted for any such offence; and he shall not be discharged from such excepted debts unless the Treasury certify in writing their consent to his being discharged therefrom. An order of discharge shall not release the bankrupt from any debt or liability incurred by means of any fraud or fraudulent breach of trust to which he was a party, nor from any debt or liability whereof he has obtained forbearance by any fraud to which he was a party.

Effect of order of discharge.

[B. A. 69, ss. 49, 50.]

The words, "to which he was a party," were inserted to override the case of *Cooper v. Pritchard*, 52 L. J., Q. B., 526 C. A., where it was held that a discharge under the Act of 1869 did not release a debtor from a debt incurred by the fraud of his partner.

(2.) An order of discharge shall release the bankrupt from all other debts provable in bankruptcy.

(3.) An order of discharge shall be conclusive evidence of the bankruptcy, and of the validity of the proceedings therein, and in any proceedings that may be instituted against a bankrupt who has obtained an order of discharge in respect of any debt from which he is released by the order, the bankrupt may plead that the cause of action occurred before his discharge, and may give this Act and the special matter in evidence.

(4.) An order of discharge shall not release any person who at the date of the receiving order was a partner or co-trustee with the bankrupt or was jointly bound or had made any joint contract with him or any person who was surety or in the nature of a surety for him.

Undischarged
bankrupt ob-
taining credit
to extent of £20
to be guilty of
misdemeanour.

31. Where an undischarged bankrupt who has been adjudged bankrupt under this Act obtains credit to the extent of twenty pounds or upwards from any person without informing such person that he is an undischarged bankrupt, he shall be guilty of a misdemeanour, and may be dealt with and punished as if he had been guilty of a misdemeanour under the Debtors Act, 1869, and the provisions of that Act shall apply to proceedings under this section.

PART II.

DISQUALIFICATIONS OF BANKRUPT.

32. (1.) Where a debtor is adjudged bankrupt he shall, subject to the provisions of this Act, be disqualified for—

Disqualifications of bankrupt.

[B. A. 69, ss. 121-124.]

- (a.) Sitting or voting in the House of Lords, or on any committee thereof, or being elected as a peer of Scotland or Ireland to sit and vote in the House of Lords;
- (b.) Being elected to, or sitting or voting in, the House of Commons, or on any committee thereof;
- (c.) Being appointed or acting as a justice of the peace;
- (d.) Being elected to or holding or exercising the office of mayor, alderman, or councillor;
- (e.) Being elected to or holding or exercising the office of guardian of the poor, overseer of the poor, member of a sanitary authority, or member of a school board, highway board, burial board, or select vestry.

(2.) The disqualifications to which a bankrupt is subject under this section shall be removed and cease if and when,—

- (a.) the adjudication of bankruptcy against him is annulled; or
- (b.) he obtains from the Court his discharge with a certificate to the effect that his bankruptcy was caused by misfortune without any misconduct on his part.

The Court may grant or withhold such certificate as it thinks fit, but any refusal of such certificate shall be subject to appeal.

(3.) The disqualifications imposed by this section shall extend to all parts of the United Kingdom.

Vacating of seat
in House of
Commons.

[B. A. 69, ss.
122-124.]

33. (1.) If a member of the House of Commons is adjudged bankrupt, and the disqualifications arising therefrom under this Act are not removed within six months from the date of the order, the Court shall, immediately after the expiration of that time, certify the same to the Speaker of the House of Commons, and thereupon the seat of the member shall be vacant.

(2.) Where the seat of a member so becomes vacant, the Speaker, during a recess of the House, whether by prorogation or by adjournment, shall forthwith, after receiving the certificate, cause notice thereof to be published in the *London Gazette*; and after the expiration of six days after the publication shall (unless the House has met before that day, or will meet on the day of the issue), issue his warrant to the clerk of the Crown to make out a new writ for electing another member in the room of the member whose seat has so become vacant.

(3.) The powers of the Act of the twenty-fourth year of the reign of King George the Third, chapter twenty-six, "to repeal so much of two Acts made in "the tenth and fifteenth years of the reign of His "present Majesty as authorises the Speaker of the "House of Commons to issue his warrant to the clerk "of the Crown for making out writs for the election "of members to serve in Parliament in the manner "therein mentioned; and for substituting other provisions for the like purposes," so far as those powers

enable the Speaker to nominate and appoint other persons, being members of the House of Commons, to issue warrants for the making out of new writs during the vacancy of the office of Speaker or during his absence out of the realm, shall extend to enable him to make the like nomination and appointment for issuing warrants, under the like circumstances and conditions for the election of a member in the room of any member whose seat becomes vacant under this Act.

34. If a person is adjudged bankrupt whilst holding the office of mayor, alderman, councillor, guardian, overseer, or member of a sanitary authority, school board, highway board, burial board, or select vestry, his office shall thereupon become vacant.

Vacating of
municipal and
other offices.

35. (1.) Where in the opinion of the Court a debtor ought not to have been adjudged bankrupt, or where it is proved to the satisfaction of the Court that the debts of the bankrupt are paid in full, the Court may, on the application of any person interested, by order, annul the adjudication.

Power for Court
to annul adjudication in certain
cases.

[B. A. 69, s. 81.]

See next section as to payment in full.

(2.) Where an adjudication is annulled under this section all sales and dispositions of property and payments duly made, and all acts therefore done, by the official receiver, trustee, or other person acting under their authority, or by the Court, shall be valid, but the property of the debtor who was adjudged bankrupt shall vest in such person as the Court may appoint, or in default of any such appointment revert to the debtor for all his estate or interest therein on such terms and subject to such conditions, if any, as the Court may declare by order.

(3.) Notice of the order annulling an adjudication shall be forthwith gazetted and published in a local paper.

Compare s. 14 as to annulling a receiving order.

Meaning of payment of debts in full.

[B. A. 69, s. 121.]

36. For the purposes of this Part of this Act, any debt disputed by a debtor shall be considered as paid in full, if the debtor enters into a bond, in such sum and with such sureties as the Court approves, to pay the amount to be recovered in any proceeding for the recovery of or concerning the debt, with costs, and any debt due to a creditor who cannot be found or cannot be identified shall be considered as paid in full if paid into Court.

PART III.

ADMINISTRATION OF PROPERTY.

Proof of Debts.

Description of debts provable in bankruptcy.

[B. A. 69, s. 31.]

37. (1.) Demands in the nature of unliquidated damages arising otherwise than by reason of a contract, promise, or breach of trust shall not be provable in bankruptcy.

(2.) A person having notice of any act of bankruptcy available against a debtor shall not prove under the order for any debt or liability contracted by the debtor subsequently to the date of his so having notice.

(3.) Save as aforesaid, all debts and liabilities, present or future, certain or contingent, to which the debtor is subject at the date of the receiving order, or

to which he may become subject before his discharge by reason of any obligation incurred before the date of the receiving order, shall be deemed to be debts provable in bankruptcy.

(4.) An estimate shall be made by the trustee of the value of any debt or liability provable as aforesaid, which by reason of its being subject to any contingency or contingencies, or for any other reason, does not bear a certain value.

(5.) Any person aggrieved by any estimate made by the trustee as aforesaid may appeal to the Court.

(6.) If, in the opinion of the Court, the value of the debt or liability is incapable of being fairly estimated, the Court may make an order to that effect, and thereupon the debt or liability shall, for the purposes of this Act, be deemed to be a debt not provable in bankruptcy.

(7.) If, in the opinion of the Court, the value of the debt or liability is capable of being fairly estimated, the Court may direct the value to be assessed before the Court itself without the intervention of a jury, and may give all necessary directions for this purpose, and the amount of the value when assessed shall be deemed to be a debt provable in bankruptcy.

(8.) "Liability" shall for the purposes of this Act include any compensation for work or labour done, any obligation or possibility of an obligation to pay money or money's worth on the breach of any express or implied covenant, contract, agreement, or undertaking, whether the breach does or does not occur, or is or is not likely to occur or capable of occurring before the discharge of the debtor, and generally it shall include any express or implied engagement, agreement, or undertaking, to pay, or capable of resulting in the pay-

ment of money or money's worth, whether the payment is, as respects amount, fixed or unlimited; as respects time, present or future, certain or dependent on any one contingency or on two or more contingencies; as to mode of valuation, capable of being ascertained by fixed rules, or as matter of opinion.

Mutual credit
and set-off.

[B. A. 69, s. 39.]

38. Where there have been mutual credits, mutual debts, or other mutual dealings between a debtor against whom a receiving order shall be made under this Act, and any other person proving or claiming to prove a debt under such receiving order, an account shall be taken of what is due from the one party to the other in respect of such mutual dealings, and the sum due from the one party shall be set off against any sum due from the other party, and the balance of the account, and no more, shall be claimed or paid on either side respectively; but a person shall not be entitled under this section to claim the benefit of any set-off against the property of a debtor in any case where he had at the time of giving credit to the debtor, notice of any act of bankruptcy committed by the debtor and available against him.

Rules as to
proof of debts.

39. With respect to the mode of proving debts, the right of proof by secured and other creditors, the admission and rejection of proofs, and the other matters referred to in the Second Schedule, the rules in that schedule shall be observed.

Priority of
debts.

[B. A. 69, s. 32.]

40. (1.) In the distribution of the property of a bankrupt there shall be paid in priority to all other debts :—

(a.) All parochial or other local debts due from the bankrupt at the date of the receiving order, and having become due and payable within twelve

months next before such time, and all assessed taxes, land tax, property or income tax, assessed on him up to the fifth day of April next before the date of the receiving order, and not exceeding in the whole one year's assessment;

- (b.) All wages or salary of any clerk or servant in respect of services rendered to the bankrupt during four months before the date of the receiving order, not exceeding fifty pounds; and
- (c.) All wages of any labourer or workman, not exceeding fifty pounds, whether payable for time or piece-work, in respect of services rendered to the bankrupt during four months before the date of the receiving order.

(2.) The foregoing debts shall rank equally between themselves, and shall be paid in full, unless the property of the bankrupt is insufficient to meet them, in which case they shall abate in equal proportions between themselves.

(3.) In the case of partners the joint estate shall be applicable in the first instance in payment of their joint debts, and the separate estate of each partner shall be applicable in the first instance in payment of his separate debts. If there is a surplus of the separate estates it shall be dealt with as part of the joint estate. If there is a surplus of the joint estate it shall be dealt with as part of the respective separate estates in proportion to the right and interest of each partner in the joint estate.

As to dividends see s. 59.

(4.) Subject to the provisions of this Act all debts proved in the bankruptcy shall be paid *pari passu*.

See sec. 3 of the Married Women's Property Act, 1882.

(5.) If there is any surplus after payment of the foregoing debts, it shall be applied in payment of interest from the date of the receiving order at the rate of four pounds per centum per annum on all debts proved in the bankruptcy.

(6.) Nothing in this section shall alter the effect of section five of the Act twenty-eight and twenty-nine Victoria, chapter eighty-six, "to amend the Law of Partnership," or shall prejudice the provisions of the Friendly Societies Act, 1875.

38 & 39 Vict.
c. 60.

Preferential
claim in case of
apprenticeship.

[B. A. 69, s. 33.]

41. (1.) Where at the time of the presentation of the bankruptcy petition any person is apprenticed or is an articulated clerk to the bankrupt, the adjudication of bankruptcy shall, if either the bankrupt or apprentice or clerk gives notice in writing to the trustee to that effect, be a complete discharge of the indenture of apprenticeship or articles of agreement; and if any money has been paid by or on behalf of the apprentice or clerk to the bankrupt as a fee, the trustee may, on the application of the apprentice or clerk, or of some person on his behalf, pay such sum as the trustee, subject to an appeal to the Court, thinks reasonable, out of the bankrupt's property, to or for the use of the apprentice or clerk, regard being had to the amount paid by him or on his behalf, and to the time during which he served with the bankrupt under the indenture or articles before the commencement of the bankruptcy, and to the other circumstances of the case.

(2.) Where it appears expedient to a trustee, he may, on the application of any apprentice or articulated clerk to the bankrupt, or any person acting on behalf of such apprentice or articulated clerk, instead of acting under the preceding provisions of this section, transfer the

indenture of apprenticeship or articles of agreement to some other person.

42. (1.) The landlord or other person to whom any rent is due from the bankrupt may at any time, either before or after the commencement of the bankruptcy, distrain upon the goods or effects of the bankrupt for the rent due to him from the bankrupt, with this limitation, that if such distress for rent be levied after the commencement of the bankruptcy it shall be available only for one year's rent accrued due prior to the date of the order of adjudication, but the landlord or other person to whom the rent may be due from the bankrupt may prove under the bankruptcy for the surplus due for which the distress may not have been available.

Power to landlord to distrain for rent.

[B. A. 69, s. 34.]

(2.) For the purposes of this section the term "order of adjudication" shall be deemed to include an order for the administration of the estate of a debtor whose debts do not exceed fifty pounds, or of a deceased person who dies insolvent.

See ss. 122, 125, as to these orders.

Property available for Payment of Debts.

43. The bankruptcy of a debtor, whether the same takes place on the debtor's own petition or upon that of creditor or creditors, shall be deemed to have relation back to, and to commence at, the time of the act of bankruptcy being committed on which a receiving order is made against him, or, if the bankrupt is proved to have committed more acts of bankruptcy than one, to have relation back to, and to commence at, the time of the first of the acts of bankruptcy proved to have been committed by the bankrupt within three months next

Relation back trustee's title.

[B. A. 69, s. 11.]

preceding the date of the presentation of the bankruptcy petition; but no bankruptcy petition, receiving order, or adjudication shall be rendered invalid by reason of any act of bankruptcy anterior to the debt of the petitioning creditor.

Description of
bankrupt's pro-
perty divisible
amongst
creditors.

[B. A. 69, s. 15.]

44. The property of the bankrupt divisible amongst his creditors, and in this Act referred to as the property of the bankrupt, shall not comprise the following particulars :

- (1.) Property held by the bankrupt on trust for any other person :
- (2.) The tools (if any) of his trade and the necessary wearing apparel and bedding of himself, his wife and children, to a value, inclusive of tools and apparel and bedding, not exceeding twenty pounds in the whole :

Compare s. 122 (4).

But it shall comprise the following particulars :

- (i.) All such property as may belong to or be vested in the bankrupt at the commencement of the bankruptcy, or may be acquired by or devolve on him before his discharge; and
- (ii.) The capacity to exercise and to take proceedings for exercising all such powers in or over or in respect of property as might have been exercised by the bankrupt for his own benefit at the commencement of his bankruptcy or before his discharge, except the right of nomination to a vacant ecclesiastical benefice; and
- (iii.) All goods being, at the commencement of the bankruptcy, in the possession, order or disposi-

tion of the bankrupt, in his trade or business, by the consent and permission of the true owner, under such circumstances that he is the reputed owner thereof; Provided that things in action other than debts due or growing due to the bankrupt in the course of his trade or business, shall not be deemed goods within the meaning of this section.

This provision confines the doctrine of reputed ownership to trade goods.

Effect of Bankruptcy on antecedent Transactions.

45. (1.) Where a creditor has issued execution against the goods or lands of a debtor, or has attached any debt due to him, he shall not be entitled to retain the benefit of the execution or attachment against the trustee in bankruptcy of the debtor, unless he has completed the execution or attachment before the date of the receiving order, and before notice of the presentation of any bankruptcy petition by or against the debtor, or of the commission of any available act of bankruptcy by the debtor.

Restriction of rights of creditor under execution or attachment.

(2.) For the purposes of this Act, an execution against goods is completed by seizure and sale; an attachment of a debt is completed by receipt of the debt; and an execution against land is completed by seizure, or, in the case of an equitable interest, by the appointment of a receiver.

An execution creditor who has seized but not sold will no longer be a secured creditor.

46. (1.) Where the goods of a debtor are taken in execution, and before the sale thereof, notice is served on the sheriff that a receiving order has been made

Duties of sheriff as to goods taken in execution.

[B. A. 89, s. 87.]

against the debtor, the sheriff shall, on request, deliver the goods to the official receiver or trustee under the order, but the costs of the execution shall be a charge on the goods so delivered, and the official receiver or trustee may sell the goods or an adequate part thereof for the purpose of satisfying the charge.

(2.) Where the goods of a debtor are sold under an execution in respect of a judgment for a sum exceeding twenty pounds, the sheriff shall deduct the costs of the execution from the proceeds of sale, and retain the balance for fourteen days, and if within that time notice is served on him of a bankruptcy petition having been presented against or by the debtor, and the debtor is adjudged bankrupt thereon or on any other petition of which the sheriff has notice, the sheriff shall pay the balance to the trustee in the bankruptcy, who shall be entitled to retain the same as against the execution creditor, but otherwise he shall deal with it as if no notice of the presentation of a bankruptcy petition had been served on him.

(3.) An execution levied by seizure and sale on the goods of a debtor is not invalid by reason only of its being an act of bankruptcy, and a person who purchases the goods in good faith under a sale by the sheriff shall in all cases acquire a good title to them against the trustee in bankruptcy.

Avoidance of
voluntary
settlements.

[B. A. 69, s. 91.]

47. (1.) Any settlement of property not being a settlement made before and in consideration of marriage, or made in favour of a purchaser or incumbrancer in good faith and for valuable consideration, or a settlement made on or for the wife or children of the settlor of property which has accrued to the settlor after marriage in right of his wife, shall, if the settlor

becomes bankrupt within two years after the date of the settlement, be void against the trustee in the bankruptcy, and shall, if the settlor becomes bankrupt at any subsequent time within ten years after the date of the settlement, be void against the trustee in the bankruptcy, unless the parties claiming under the settlement can prove that the settlor was at the time of making the settlement able to pay all his debts without the aid of the property comprised in the settlement, and that the interest of the settlor in such property had passed to the trustee of such settlement on the execution thereof.

(2.) Any covenant or contract made in consideration of marriage, for the future settlement on or for the settlor's wife or children of any money or property wherein he had not at the date of his marriage any estate or interest, whether vested or contingent in possession or remainder, and not being money or property of or in right of his wife, shall, on his becoming bankrupt before the property or money has been actually transferred or paid pursuant to the contract or covenant, be void against the trustee in the bankruptcy.

(3.) "Settlement" shall for the purposes of this section include any conveyance or transfer of property.

48. (1.) Every conveyance or transfer of property, or charge thereon made, every payment made, every obligation incurred, and every judicial proceeding taken or suffered by any person unable to pay his debts as they become due from his own money in favour of any creditor, or any person in trust for any creditor, with a view of giving such creditor a preference over the other creditors shall, if the person

Avoidance of preferences in certain cases.

[B. A. 69, s. 92.]

making, taking, paying, or suffering the same is adjudged bankrupt on a bankruptcy petition presented within three months after the date of making, taking, paying, or suffering the same, be deemed fraudulent and void as against the trustee in the bankruptcy.

(2.) This section shall not affect the rights of any person making title in good faith and for valuable consideration through or under a creditor of the bankrupt.

This section alters the law, as laid down in *Butcher v. Stead*, L. R. 7, H. L. 839.

Protection of
bonâ fide trans-
actions without
notice.

[B. A. 69, ss. 94,
95.]

49. Subject to the foregoing provisions of this Act with respect to the effect of bankruptcy on an execution or attachment, and with respect to the avoidance of certain settlements and preferences, nothing in this Act shall invalidate, in the case of a bankruptcy—

- (a.) Any payment by the bankrupt to any of his creditors,
- (b.) Any payment or delivery to the bankrupt,
- (c.) Any conveyance or assignment by the bankrupt for valuable consideration,
- (d.) Any contract, dealing, or transaction by or with the bankrupt for valuable consideration,

Provided that both the following conditions are complied with, namely—

- (1.) The payment, delivery, conveyance, assignment, contract, dealing or transaction, as the case may be, takes place before the date of the receiving order; and
- (2.) The person (other than the debtor) to, by, or with whom the payment, delivery, conveyance, assignment, contract, dealing or transaction was made, executed or entered into,

has not at the time of the payment, delivery, conveyance, assignment, contract, dealing or transaction, notice of any available act of bankruptcy committed by the bankrupt before that time.

Realisation of Property.

50. (1.) The trustee shall, as soon as may be, take possession of the deeds, books and documents of the bankrupt, and all other parts of his property capable of manual delivery.

Possession of property by trustee.

[B. A. 89, ss. 20, 21, 22.]

(2.) The trustee shall, in relation to and for the purpose of acquiring or retaining possession of the property of the bankrupt, be in the same position as if he were a receiver of the property appointed by the High Court, and the Court may, on his application, enforce such acquisition or retention accordingly.

(3.) Where any part of the property of the bankrupt consists of stock, shares in ships, shares or any other property transferable in the books of any company, office or person, the trustee may exercise the right to transfer the property to the same extent as the bankrupt might have exercised it if he had not become bankrupt.

(4.) Where any part of the property of the bankrupt is of copyhold or customary tenure, or is in any like property passing by surrender and admittance or in any similar manner, the trustee shall not be compellable to be admitted to the property, but may deal with it in the same manner as if it had been capable of being and had been duly surrendered or otherwise conveyed to such uses as the trustee may appoint; and any appointee of the trustee shall be admitted to or otherwise invested with the property accordingly.

(5.) Where any part of the property of the bankrupt consists of things in action, such things shall be deemed to have been duly assigned to the trustee.

(6.) Any treasurer or other officer, or any banker, attorney or agent of a bankrupt, shall pay and deliver to the trustee all money and securities in his possession or power, as such officer, banker, attorney or agent, which he is not by law entitled to retain as against the bankrupt or the trustee. If he does not he shall be guilty of a contempt of Court, and may be punished accordingly on the application of the trustee.

Seizure of property of bankrupt.

[B. A. 69, s. 99.]

51. Any person acting under warrant of the Court may seize any part of the property of a bankrupt in the custody or possession of the bankrupt, or of any other person, and with a view to such seizure may break open any house, building, or room of the bankrupt where the bankrupt is supposed to be, or any building or receptacle of the bankrupt where any of his property is supposed to be; and where the Court is satisfied that there is reason to believe that property of the bankrupt is concealed in a house or place not belonging to him, the Court may, if it thinks fit, grant a search warrant to any constable or officer of the Court, who may execute it according to its tenor.

Sequestration of ecclesiastical benefice.

[B. A. 69, s. 98.]

52. (1.) Where a bankrupt is a beneficed clergyman, the trustee may apply for a sequestration of the profits of the benefice, and the certificate of the appointment of the trustee shall be sufficient authority for the granting of sequestration without any writ or other proceeding, and the same shall accordingly be issued as on a writ of *levari facias* founded on a judgment against the bankrupt, and shall have priority over any other sequestra-

tion issued after the commencement of the bankruptcy in respect of a debt provable in the bankruptcy, except a sequestration issued before the date of the receiving order by or on behalf of a person who at the time of the issue thereof had not notice of an act of bankruptcy committed by the bankrupt, and available for grounding a receiving order against him.

(2.) The bishop of the diocese in which the benefice is situate may, if he thinks fit, appoint to the bankrupt such or the like stipend as he might by law have appointed to a curate duly licensed to serve the benefice in case the bankrupt had been non-resident, and the sequestrator shall pay the sum so appointed out of the profits of the benefice to the bankrupt, by quarterly instalments while he performs the duties of the benefice.

(3.) The sequestrator shall also pay out of the profits of the benefice the salary payable to any duly licensed curate of the church of the benefice in respect of duties performed by him as such during four months before the date of the receiving order not exceeding fifty pounds.

(4.) Nothing in this section shall prejudice the operation of the Ecclesiastical Dilapidations Act, 1871, or the Sequestration Act, 1871, or any mortgage or charge duly created under any Act of Parliament before the commencement of the bankruptcy on the profits of the benefice.

53. (1.) Where a bankrupt is an officer of the army or navy, or an officer or clerk or otherwise employed or engaged in the civil service of the Crown, the trustee shall receive for distribution amongst the creditors so much of the bankrupt's pay or salary as the Court, on

34 & 35 Vict.
c. 43.
34 & 35 Vict.
c. 45.

Appropriation
of portion of
pay or salary
to creditors.

[B. A. 62, ss. 89,
90.]

the application of the trustee, with the consent of the chief officer of the department under which the pay or salary is enjoyed, may direct. Before making any order under this subsection the Court shall communicate with the chief officer of the department as to the amount, time, and manner of the payment to the trustee, and shall obtain the written consent of the chief officer to the terms of such payment.

(2.) Where a bankrupt is in the receipt of a salary or income other than as aforesaid, or is entitled to any half pay, or pension, or to any compensation granted by the Treasury, the Court, on the application of the trustee, shall from time to time make such order as it thinks just for the payment of the salary, income, half pay, pension, or compensation, or of any part thereof, to the trustee to be applied by him in such manner as the Court may direct.

(3.) Nothing in this section shall take away or abridge any power of the chief officer of any public department to dismiss a bankrupt, or to declare the pension, half pay, or compensation of any bankrupt to be forfeited.

Vesting and
transfer of
property.

[B. A. 69, ss. 17,
83.]

54. (1.) Until a trustee is appointed the official receiver shall be the trustee for the purposes of this Act, and immediately on a debtor being adjudged bankrupt, the property of a bankrupt shall vest in the trustee.

(2.) On the appointment of a trustee the property shall forthwith pass to and vest in the trustee appointed.

(3.) The property of the bankrupt shall pass from trustee to trustee, including under that term the official receiver when he fills the office of trustee, and shall vest in the trustee for the time being during his

continuance in office, without any conveyance, assignment, or transfer whatever.

(4.) The certificate of appointment of a trustee shall, for all purposes of any law in force in any part of the British dominions requiring registration, enrolment, or recording of conveyances or assignments of property, be deemed to be a conveyance or assignment of property, and may be registered, enrolled, and recorded accordingly.

55. (1.) Where any part of the property of the bankrupt consists of land of any tenure burdened with onerous covenants, or shares or stock in companies, of unprofitable contracts, or of any other property that is unsaleable, or not readily saleable, by reason of its binding the possessor thereof to the performance of any onerous act, or to the payment of any sum of money, the trustee, notwithstanding that he has endeavoured to sell or has taken possession of the property, or exercised any act of ownership in relation thereto, but subject to the provisions of this section, may, by writing signed by him, at any time within three months after the first appointment of a trustee, disclaim the property.

Disclaimer of
onerous
property.

[B. A. 69, ss. 23
24.]

Provided that where any such property shall not have come to the knowledge of the trustee within one month after such appointment, he may disclaim such property at any time within two months after he first became aware thereof.

(2.) The disclaimer shall operate to determine, as from the date of disclaimer, the rights, interests, and liabilities of the bankrupt and his property in or in respect of the property disclaimed, and shall also discharge the trustee from all personal liability in respect

of the property disclaimed as from the date when the property vested in him, but shall not, except so far as is necessary for the purpose of releasing the bankrupt and his property and the trustee from liability, affect the rights or liabilities of any other person.

This sub-section appears intended to remove some of the difficulties which arose from the relation back of disclaimers. See *Ex p. Glegg*, 19, Ch. D. 7.

(3.) A trustee shall not be entitled to disclaim a lease without the leave of the Court, except in any cases which may be prescribed by general rules, and the Court may, before or on granting such leave, require such notices to be given to persons interested, and impose such terms as a condition of granting leave, and make such orders with respect to fixtures, tenant's improvements, and other matters arising out of the tenancy as the Court think just.

(4.) The trustee shall not be entitled to disclaim any property in pursuance of this section in any case where an application in writing has been made to the trustee by any person interested in the property requiring him to decide whether he will disclaim or not, and the trustee has for a period of twenty-eight days after the receipt of the application, or such extended period as may be allowed by the Court, declined or neglected to give notice whether he disclaims the property or not; and, in the case of a contract, if the trustee, after such application as aforesaid, does not within the said period, or extended period disclaim the contract, he shall be deemed to have adopted it.

(5.) The Court may, on the application of any person who is, as against the trustee, entitled to the benefit or subject to the burden of a contract made with the bankrupt, make an order rescinding the contract

on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise, as to the Court may seem equitable, and any damages payable under the order to any such person may be proved by him as a debt under the bankruptcy.

(6.) The Court may, on application by any person either claiming any interest in any disclaimed property, or under any liability not discharged by this Act in respect of any disclaimed property, and on hearing such persons as it thinks fit, make an order for the vesting of the property in or delivery thereof to any person entitled thereto, or to whom it may seem just that the same should be delivered by way of compensation for such liability as aforesaid, or a trustee for him, and on such terms as the Court thinks just; and on any such vesting order being made, the property comprised therein shall vest accordingly in the person therein named in that behalf without any conveyance or assignment for the purpose.

Provided always, that where the property disclaimed is of a leasehold nature, the Court shall not make a vesting order in favour of any person claiming under the bankrupt, whether as under-lessee or as mortgagee by demise except upon the terms of making such person subject to the same liabilities and obligations as the bankrupt was subject to under the lease in respect to the property at the date when the bankruptcy petition was filed, and any mortgagee or under-lessee declining to accept a vesting order upon such terms shall be excluded from all interest in and security upon the property, and if there shall be no person claiming under the bankrupt who is willing to accept an order upon such terms, the Court shall have power to vest the bankrupt's

estate and interest in the property in any person liable either personally or in a representative character, and either alone or jointly with the bankrupt to perform the lessee's covenants in such lease, freed and discharged from all estates, incumbrances and interests created therein by the bankrupt.

(7.) Any person injured by the operation of a disclaimer under this section shall be deemed to be a creditor of the bankrupt to the extent of the injury, and may accordingly prove the same as a debt under the bankruptcy.

Powers of
trustee to deal
with property.

[B. A. 69, s. 25.]

56. Subject to the provisions of this Act, the trustee may do all or any of the following things:—

- (1.) Sell all or any part of the property of the bankrupt (including the goodwill of the business, if any, and the book debts due or growing due to the bankrupt), by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels:
- (2.) Give receipts for any money received by him, which receipts shall effectually discharge the person paying the money from all responsibility in respect of the application thereof:
- (3.) Prove rank, claim, and draw a dividend in respect of any debt due to the bankrupt:
- (4.) Exercise any powers the capacity to exercise which is vested in the trustee under this Act, and execute any powers of attorney, deeds and other instruments for the purpose of carrying into effect the provisions of this Act:
- (5.) Deal with any property to which the bankrupt is beneficially entitled as tenant in tail in the

same manner as the bankrupt might have dealt with it; and sections fifty-six to seventy-three (both inclusive) of the Act of the Session of the third and fourth years of the reign of King William the Fourth (chapter seventy-four), "for the abolition of fines and recoveries, and for the substitution of more simple modes of assurance," shall extend and apply to proceedings under this Act, as if those sections were here re-enacted and made applicable in terms to those proceedings.

57. The trustee may, with the permission of the committee of inspection, do all or any the following things:—

Powers exercisable by trustee with permission of committee of inspection.

- (1.) Carry on the business of the bankrupt, so far as may be necessary for the beneficial winding up of the same:
- (2.) Bring, institute, or defend any action or other legal proceeding relating to the property of the bankrupt:
- (3.) Employ a solicitor or other agent to take any proceedings or do any business which may be sanctioned by the committee of inspection:
- (4.) Accept as the consideration for the sale of any property of the bankrupt a sum of money payable at a future time subject to such stipulations as to security and otherwise as the committee think fit:
- (5.) Mortgage or pledge any part of the property of the bankrupt for the purpose of raising money for the payment of his debts:
- (6.) Refer any dispute to arbitration, compromise all debts, claims, and liabilities, whether

[B. A. 69, ss. 27-29.]

present or future, certain or contingent, liquidated, or unliquidated, subsisting or supposed to subsist between the bankrupt and any person who may have incurred any liability to the bankrupt, on the receipt of such sums, payable at such times, and generally on such terms as may be agreed on :

- (7.) Make such compromise or other arrangement as may be thought expedient with creditors, or persons claiming to be creditors, in respect of any debts provable under the bankruptcy :
- (8.) Make such compromise or other arrangement as may be thought expedient with respect to any claim arising out of or incidental to the property of the bankrupt, made or capable of being made on the trustee by any person or by the trustee on any person :
- (9.) Divide in its existing form amongst the creditors, according to its estimated value, any property which from its peculiar nature or other special circumstances cannot be readily or advantageously sold.

The permission given for the purposes of this section shall not be a general permission to do all or any of the above-mentioned things, but shall only be a permission to do the particular thing or things for which permission is sought in the specified case or cases.

Distribution of Property.

Declaration and
distribution of
dividend.

58. (1.) Subject to the retention of such sums as may be necessary for the costs of administration, or otherwise, the trustee shall, with all convenient speed,

[B. A. 69, s. 41.]

declare and distribute dividends amongst the creditors who have proved their debts.

(2.) The first dividend, if any, shall be declared and distributed within four months after the conclusion of the first meeting of creditors, unless the trustee satisfies the committee of inspection that there is sufficient reason for postponing the declaration to a later date.

(3.) Subsequent dividends shall, in the absence of sufficient reason to the contrary, be declared and distributed at intervals of not more than six months.

(4.) Before declaring a dividend the trustee shall cause notice of his intention to do so to be gazetted in the prescribed manner and shall also send reasonable notice thereof to each creditor mentioned in the bankrupt's statement who has not proved his debt.

(5.) When the trustee has declared a dividend he shall send to each creditor who has proved a notice showing the amount of the dividend and when and how it is payable, and a statement in the prescribed form as to the particulars of the estate.

59. (1.) Where one partner of a firm is adjudged bankrupt, a creditor to whom the bankrupt is indebted jointly with the other partners of the firm, or any of them, shall not receive any dividend out of the separate property of the bankrupt until all the separate creditors have received the full amount of their respective debts.

Joint and
separate
dividends.

[B. A. 69, ss.
103-104.]

(2.) Where joint and separate properties are being administered, dividends of the joint and separate properties shall, subject to any order to the contrary that may be made by the Court on the application of any person interested, be declared together: and the

expenses of and incident to such dividends shall be fairly apportioned by the trustee between the joint and separate properties, regard being had to the work done for and the benefit received by each property.

Provision for
creditors
residing at a
distance, &c.

[B. A. 69, s. 42.]

60. In the calculation and distribution of a dividend the trustee shall make provision for debts provable in bankruptcy appearing from the bankrupt's statements, or otherwise, to be due to persons resident in places so distant from the place where the trustee is acting that in the ordinary course of communication they have not had sufficient time to tender their proofs, or to establish them if disputed, and also for debts provable in bankruptcy the subject of claims not yet determined. He shall also make provision for any disputed proofs or claims, and for the expenses necessary for the administration of the estate or otherwise, and, subject to the foregoing provisions, he shall distribute as dividend all money in hand.

Right of
creditor who
has not proved
debt before
declaration of
a dividend.

[B. A. 69, s. 43.]

61. Any creditor who has not proved his debt before the declaration of any dividend or dividends shall be entitled to be paid out of any money for the time being in the hands of the trustee any dividend or dividends he may have failed to receive before that money is applied to the payment of any future dividend or dividends, but he shall not be entitled to disturb the distribution of any dividend declared before his debt was proved by reason that he has not participated therein.

Final dividend.

[B. A. 69, s. 44.]

62. When the trustee has realised all the property of the bankrupt, or so much thereof as can, in the joint opinion of himself and of the committee of

inspection, be realised without needlessly protracting the trusteeship, he shall declare a final dividend, but before so doing he shall give notice in manner prescribed to the persons whose claims to be creditors have been notified to him, but not established to his satisfaction, that if they do not establish their claims to the satisfaction of the Court within a time limited by the notice, he will proceed to make a final dividend, without regard to their claims. After the expiration of the time so limited, or, if the Court on application by any such claimant grant him further time for establishing his claim, then on the expiration of such further time, the property of the bankrupt shall be divided among the creditors who have proved their debts, without regard to the claims of any other persons.

63. No action for a dividend shall lie against the trustee, but if the trustee refuses to pay any dividend the Court may, if it thinks fit, order him to pay it, and also to pay out of his own money interest thereon for the time that it is withheld, and the costs of the application.

No action for dividend.

[B. A. 69, s. 46.]

64. (1.) The trustee, with the permission of the committee of inspection, may appoint the bankrupt himself to superintend the management of the property of the bankrupt or of any part thereof, or to carry on the trade (if any) of the bankrupt for the benefit of his creditors, and in any other respect to aid in administering the property in such manner and on such terms as the trustee may direct.

Power to allow bankrupt to manage property.

[B. A. 69, s. 26.]

(2.) The trustee may from time to time, with the permission of the committee of inspection, make such

Allowance to bankrupt for

maintenance or
service.

[B. A. 69, s. 38.]

allowance as he may think just to the bankrupt out of his property for the support of the bankrupt and his family, or in consideration of his services if he is engaged in winding up his estate, but any such allowance may be reduced by the Court.

Right of
bankrupt to
surplus.

[B. A. 69, s. 45.]

65. The bankrupt shall be entitled to any surplus remaining after payment in full of his creditors, with interest, as by this Act provided, and of the costs, charges, and expenses of the proceedings under the bankruptcy petition.

As to payment in full compare s. 36.

PART IV.

OFFICIAL RECEIVERS AND STAFF OF BOARD OF TRADE.

Appointment by
Board of Trade
of official
receivers of
debtors' estates.

66. (1.) The Board of Trade may, at any time after the passing of this Act, and from time to time, appoint such persons as they think fit to be official receivers of debtors' estates, and may remove any person so appointed from such office. The official receivers of debtors' estates shall act under the general authority and directions of the Board of Trade, but shall also be officers of the courts to which they are respectively attached.

As to payment of officers see s. 128.

(2.) The number of official receivers so to be appointed and the districts to be assigned to them shall be fixed by the Board of Trade with the concurrence of the Treasury. One person only shall

be appointed for each district, unless the Board of Trade, with the concurrence of the Treasury, shall otherwise direct; but the same person may, with the like concurrence, be appointed to act for more than one district.

(3.) Where more than one official receiver is attached to the Court, such one of them as is for the time being appointed by the Court for any particular estate shall be the official receiver for the purposes of that estate. The Court shall distribute the receiverships of the particular estates among the official receivers in the prescribed manner.

See s. 9, ante.

67. (1.) The Board of Trade may from time to time by order direct that any of its officers mentioned in the order shall be capable of discharging the duties of any official receiver during any temporary vacancy in the office, or during the temporary absence of any official receiver through illness or otherwise.

Deputy for
official receiver.

(2.) The Board of Trade may, on the application of an official receiver, at any time by order nominate some fit person to be his deputy, and to act for him for such time not exceeding two months as the order may fix, and under such conditions as to remuneration and otherwise as may be prescribed.

68. (1.) The duties of the official receiver shall have relation both to the conduct of the debtor and to the administration of his estate.

Status of official
receiver.

(2.) An official receiver may, for the purpose of affidavits verifying proofs, petitions, or other proceedings under this Act, administer oaths.

(3.) All expressions referring to the trustee under

a bankruptcy shall, unless the context otherwise requires, or the Act otherwise provides, include the official receiver when acting as trustee.

(4.) The trustee shall supply the official receiver with such information, and give him such access to and facilities for inspecting the bankrupt's books and documents and generally shall give him such aid as may be requisite for enabling the official receiver to perform his duties under this Act.

Duties of official receiver as regards the debtor's conduct.

69. As regards the debtor, it shall be the duty of the official receiver—

(1.) To investigate the conduct of the debtor and to report to the Court, stating whether there is reason to believe that the debtor has committed any act which constitutes a misdemeanour under the Debtors Act, 1869, or any amendment thereof, or under this Act, or which would justify the Court in refusing, suspending, or qualifying an order for his discharge.

(2.) To make such other reports concerning the conduct of the debtor as the Board of Trade may direct.

(3.) To take such part as may be directed by the Board of Trade in the public examination of the debtor.

(4.) To take such part, and give such assistance, in relation to the prosecution of any fraudulent debtor as the Board of Trade may direct.

Duties of official receiver as to debtor's estate.

70. (1.) As regards the estate of a debtor it shall be the duty of the official receiver—

(a.) Pending the appointment of a trustee, to act as interim receiver of the debtor's estate, and, where a special manager is not appointed, as manager thereof:

- (b.) To authorise the special manager to raise money or make advances for the purposes of the estate in any case where, in the interests of the creditors, it appears necessary so to do :
- (c.) To summon and preside at the first meeting of creditors :
- (d.) To issue forms of proxy for use at the meeting of creditors :
- (e.) To report to the creditors as to any proposal which the debtor may have made with respect to the mode of liquidating his affairs :
- (f.) To advertise the receiving order, the date of the creditors' first meeting and of the debtor's public examination, and such other matters as it may be necessary to advertise :
- (g.) To act as trustee during any vacancy in the office of trustee.

(2.) For the purpose of his duties as interim receiver or manager the official receiver shall have the same powers as if he were a receiver and manager appointed by the High Court, but shall, as far as practicable, consult the wishes of the creditors with respect to the management of the debtor's property, and may for that purpose, if he thinks it advisable, summon meetings of the persons claiming to be creditors, and shall not, unless the Board of Trade otherwise order, incur any expense beyond such as is requisite for the protection of the debtor's property or the disposing of perishable goods.

Provided that when the debtor cannot himself prepare a proper statement of affairs, the official receiver may, subject to any prescribed conditions, and at the expense of the estate, employ some person or persons

to assist in the preparation of the statement of affairs.

(3.) Every official receiver shall account to the Board of Trade and pay over all moneys and deal with all securities in such manner as the Board from time to time direct.

Power for Board
of Trade to
appoint
officers.

71. The Board of Trade may, at any time after the passing of this Act, and from time to time, with the approval of the Treasury, appoint such additional officers, including official receivers, clerks, and servants (if any) as may be required by the Board for the execution of this Act, and may dismiss any person so appointed.

PART V.

TRUSTEES IN BANKRUPTCY.

Remuneration of Trustee.

Remuneration
of trustee.

[B. A. 69, s. 14.]

72. (1.) Where the creditors appoint any person to be trustee of a debtor's estate, his remuneration (if any) shall be fixed by an ordinary resolution of the creditors, or if the creditors so resolve by the committee of inspection, and shall be in the nature of a commission or percentage, of which one part shall be payable on the amount realised, after deducting any sums paid to secured creditors out of the proceeds of their securities, and the other part on the amount distributed in dividend.

(2.) If one fourth in number or value of creditors dissent from the resolution, or the bankrupt satisfies

the Board of Trade that the remuneration is unnecessarily large, the Board of Trade shall fix the amount of the remuneration.

(3.) The resolution shall express what expenses of the remuneration is to cover, and no liability shall attach to the bankrupt's estate, or to the creditors, in respect of any expenses which the remuneration is expressed to cover.

(4.) Where no remuneration has been voted to a trustee he shall be allowed out of the bankrupt's estate such proper costs and expenses incurred by him in or about the proceedings of the bankruptcy as the taxing officer may allow.

(5.) A trustee shall not, under any circumstances whatever, make any arrangement for or accept from the bankrupt, or any solicitor, auctioneer or any other person that may be employed about a bankruptcy, any gift, remuneration, or pecuniary or other consideration or benefit whatever beyond the remuneration fixed by the creditors and payable out of the estate, nor shall he make any arrangement for giving up, or give up, any part of his remuneration, either as receiver, manager, or trustee, to the bankrupt or any solicitor or other person that may be employed about a bankruptcy.

Costs.

73. (1.) Where a trustee or manager receives remuneration for his services as such no payment shall be allowed in his accounts in respect of the performance by any other person of the ordinary duties which are required by statute or rules to be performed by himself.

Allowance and
taxation of
costs.

[B. A. 69, s. 29.]

(2.) Where the trustee is a solicitor he may contract that the remuneration for his services as trustee shall include all professional services.

(3.) All bills and charges of solicitors, managers, accountants, auctioneers, brokers, and other persons, not being trustees, shall be taxed by the prescribed officer, and no payments in respect thereof shall be allowed in the trustee's accounts without proof of such taxation having been made. The taxing master shall satisfy himself before passing such bills and charges that the employment of such solicitors and other persons, in respect of the particular matters out of which such charges arise, has been duly sanctioned.

(4.) Every such person shall, on request by the trustee (which request the trustee shall make a sufficient time before declaring a dividend), deliver his bill of costs or charges to the proper officer for taxation, and if he fails to do so within seven days after receipt of the request, or such further time as the Court, on application, may grant, the trustee shall declare and distribute the dividend without regard to any claim by him, and thereupon any such claim shall be forfeited as well against the trustee personally as against the estate.

Receipts, Payment, Accounts, Audit.

Payment of
money into
Bank of
England.
[B. A. 69, s. 30.]

74. (1.) An account called the Bankruptcy Estates Account shall be kept by the Board of Trade with the Bank of England, and all moneys received by the Board of Trade in respect of proceedings under this Act shall be paid to that account.

(2.) The account of the Accountant in Bankruptcy at the Bank of England shall be transferred to the Bankruptcy Estates Account.

As to the transfer of the accountant see s. 153.

(3.) Every trustee in bankruptcy shall, in such manner and at such times as the Board of Trade with

the concurrence of the Treasury direct, pay the money received by him to the Bankruptcy Estates Account at the Bank of England, and the Board of Trade shall furnish him with a certificate of receipt of the money so paid.

(4.) Provided that if it appears to the committee of inspection that for the purpose of carrying on the debtor's business, or of obtaining advances, or because of the probable amount of the cash balance, or if the committee shall satisfy the Board of Trade that for any other reason it is for the advantage of the creditors that the trustee should have an account with a local bank, the Board of Trade shall, on the application of the committee of inspection, authorise the trustee to make his payments into and out of such local bank as the committee may select.

Such account shall be opened and kept by the trustee in the name of the debtor's estate; and any interest receivable in respect of the account shall be part of the assets of the estate.

The trustee shall make his payments into and out of such local bank in the prescribed manner.

(5.) Subject to any general rules relating to small bankruptcies under Part VII. of this Act, where the debtor at the date of the receiving order has an account at a bank, such account shall not be withdrawn until the expiration of seven days from the day appointed for the first meeting of creditors, unless the Board of Trade, for the safety of the account, or other sufficient cause, order the withdrawal of the account.

(6.) If a trustee at any time retains for more than ten days a sum exceeding fifty pounds, or such other amount as the Board of Trade in any particular case authorise him to retain, then, unless he explains the

retention to the satisfaction of the Board of Trade, he shall pay interest on the amount so retained in excess at the rate of twenty pounds per centum per annum, and shall have no claim for remuneration, and may be removed from his office by the Board of Trade, and shall be liable to pay any expenses occasioned by reason of his default.

Compare s. 60.

(7.) All payments out of money standing to the credit of the Board of Trade in the Bankruptcy Estates Account shall be made by the Bank of England in the prescribed manner.

Trustee not to
pay into private
account.

75. No trustee in a bankruptcy or under any composition or scheme of arrangement shall pay any sums received by him as trustee into his private banking account.

Investment of
surplus funds.

76. (1.) Whenever the cash balance standing to the credit of the Bankruptcy Estates Account is in excess of the amount which in the opinion of the Board of Trade is required for the time being to answer demands in respect of bankrupts' estates, the Board of Trade shall notify the same to the Treasury, and shall pay over the same or any part thereof as the Treasury may require to the Treasury, to such account as the Treasury may direct, and the Treasury may invest the said sums or any part thereof in Government securities to be placed to the credit of the said account.

(2.) Whenever any part of the money so invested is, in the opinion of the Board of Trade, required to answer any demands in respect of bankrupts' estates, the Board of Trade shall notify to the Treasury the amount so required, and the Treasury shall thereupon

repay to the Board of Trade such sum as may be required to the credit of the Bankruptcy Estates Account, and for that purpose may direct the sale of such part of the said securities as may be necessary.

(3.) The dividends on the investments under this section shall be paid to such account as the Treasury may direct, and regard shall be had to the amount thus derived in fixing the fees payable in respect of bankruptcy proceedings.

77. The Treasury may from time to time issue to the Board of Trade in aid of the votes of Parliament, out of the receipts arising from fees, fee stamps, and dividends on investments under this Act, any sums which may be necessary to meet the charges estimated by the Board of Trade in respect of salaries and expenses under this Act.

Certain receipts and fees to be applied in aid of expenditure.

78. (1.) Every trustee shall, at such times as may be prescribed, but not less than twice in each year during his tenure of office, send to the Board of Trade, or as they direct, an account of his receipts and payments as such trustee.

Audit of trustee's accounts.

[B. A. 69, ss. 20, 55, 58.]

(2.) The accounts shall be in a prescribed form, shall be made in duplicate, and shall be verified by a statutory declaration in the prescribed form.

(3.) The Board of Trade shall cause the accounts so sent to be audited, and for the purposes of the audit the trustee shall furnish the Board with such vouchers and information as the Board may require, and the Board may at any time require the production of and inspect any books or accounts kept by the trustee.

(4.) When any such account has been audited one copy thereof shall be filed and kept by the Board, and

the other copy shall be filed with the Court, and each copy shall be open to the inspection of any creditor, or of the bankrupt, or of any person interested.

The trustee to furnish list of creditors.

79. The trustee shall, whenever required by any creditor so to do, and on payment by such creditor of the prescribed fee, furnish and transmit to such creditor by post a list of the creditors, showing in such list the amount of the debt due to each of such creditors.

Books to be kept by trustee

80. The trustee shall keep, in manner prescribed, proper books, in which he shall from time to time cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed, and any creditor of the bankrupt may, subject to the control of the Court, personally or by his agent inspect any such books.

Annual statement of proceedings.

81. (1.) Every trustee in a bankruptcy shall from time to time, as may be prescribed, and not less than once in every year during the continuance of the bankruptcy, transmit to the Board of Trade a statement showing the proceedings in the bankruptcy up to the date of the statement, containing the prescribed particulars, and made out in the prescribed form.

(2.) The Board of Trade shall cause the statement so transmitted to be examined, and shall call the trustee to account for any misfeasance, neglect, or omission which may appear on the said statements or in his accounts or otherwise, and may require the trustee to make good any loss which the estate of the bankrupt

may have sustained by the misfeasance, neglect, or omission.

Release of Trustee.

82. (1.) When the trustee has realised all the property of the bankrupt, or so much thereof as can, in his opinion, be realised without needlessly protracting the trusteeship, and distributed a final dividend, if any, or has ceased to act by reason of a composition having been approved, or has resigned, or has been removed from his office, the Board of Trade shall, on his application, cause a report on his accounts to be prepared and, on his complying with all the requirements of the Board, shall take into consideration the report, and any objection which may be urged by any creditor or person interested against the release of the trustee, and shall either grant or withhold the release accordingly, subject nevertheless to an appeal to the High Court. Release of trustee.

(2.) Where the release of a trustee is withheld the Court may, on the application of any creditor or person interested, make such order as it thinks just, charging the trustee with the consequences of any act or default he may have done or made contrary to his duty.

(3.) An order of the Board releasing the trustee shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the bankrupt, or otherwise in relation to his conduct as trustee, but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.

(4.) Where the trustee has not previously resigned or been removed, his release shall operate as a removal of him from his office, and thereupon the official receiver shall be the trustee.

Official Name.

Official name of trustee.

[B. A. 69, s. 83 (7).]

83. The trustee may sue and be sued by the official name of "the trustee of the property of a bankrupt," inserting the name of the bankrupt, and by that name may in any part of the British dominions or elsewhere hold property of every description, make contracts, sue and be sued, enter into any engagements binding on himself and his successors in office, and do all other acts necessary or expedient to be done in the execution of his office.

Appointment and Removal.

Power to appoint joint or successive trustees.

[B. A. 69, s. 83 (1).]

84. (1.) The creditors may, if they think fit, appoint more persons than one to the office of trustee, and when more persons than one are appointed they shall declare whether any act required or authorised to be done by the trustee is to be done by all or any one or more of such persons, but all such persons are in this Act included under the term "trustee," and shall be joint-tenants of the property of the bankrupt.

(2.) The creditors may also appoint persons to act as trustees in succession in the event of one or more of the persons first named declining to accept the office of trustee, or failing to give security, or not being approved of by the Board of Trade.

Office of trustee vacated by insolvency.

[B. A. 69, s. 83 (5).]

Removal of trustee.

[B. A. 69, s. 83 (4).]

85. If a receiving order is made against a trustee he shall thereby vacate his office of trustee.

86. (1.) The creditors may, by ordinary resolution, at a meeting specially called for that purpose, of which seven days' notice has been given, remove a trustee appointed by them, and may at the same or any subsequent meeting appoint another person to fill the vacancy as herein-after provided in case of a vacancy in the office of trustee.

(2.) If the Board of Trade are of opinion that a trustee appointed by the creditors is guilty of misconduct, or fails to perform his duties under this Act, the Board may remove him from his office, but if the creditors by ordinary resolution, disapprove of his removal, he or they may appeal against it to the High Court.

87. (1.) If a vacancy occurs in the office of a trustee, the creditors in general meeting may appoint a person to fill the vacancy, and thereupon the same proceedings shall be taken as in the case of a first appointment.

Proceedings in case of vacancy in office of trustee.

[B. A. 69, ss. 83, 84.]

(2.) The official receiver shall, on the requisition of any creditor, summon a meeting for the purpose of filling any such vacancy.

(3.) If the creditors do not within three weeks after the occurrence of a vacancy appoint a person to fill the vacancy, the official receiver shall report the matter to the Board of Trade, and the Board may appoint a trustee; but in such case the creditors or committee of inspection shall have the same power of appointing a trustee as in the case of a first appointment.

(4.) During any vacancy in the office of trustee the official receiver shall act as trustee.

Voting powers of Trustee.

88. The vote of the trustee, or of his partner, clerk, solicitor, or solicitor's clerk, either as creditor or as proxy for a creditor, shall not be reckoned in the majority required for passing any resolution affecting the remuneration or conduct of the trustee.

Limitation of voting powers of trustee.

Control over Trustee.

89. (1.) Subject to the provisions of this Act the trustee shall, in the administration of the property of

Discretionary powers of trustees and control thereof.

[B. A. 69, s. 20.] the bankrupt and in the distribution thereof amongst his creditors, have regard to any directions that may be given by resolution of the creditors at any general meeting, or by the committee of inspection, and any directions so given by the creditors at any general meeting shall in case of conflict be deemed to override any directions given by the committee of inspection.

(2.) The trustee may from time to time summon general meetings of the creditors for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors, by resolution, either at the meeting appointing the trustee or otherwise may direct, or whenever requested in writing to do so by one-fourth in value of the creditors.

(3.) The trustee may apply to the Court in manner prescribed for directions in relation to any particular matter arising under the bankruptcy.

(4.) Subject to the provisions of this Act the trustee shall use his own discretion in the management of the estate and its distribution among the creditors.

Appeal to Court
against trustee.

[B. A. 69, s. 20.]

90. If the bankrupt or any of the creditors, or any other person, is aggrieved by any act or decision of the trustee, he may apply to the Court, and the Court may confirm, reverse, or modify the act or decision complained of, and make such order in the premises as it thinks just.

Control of
Board of Trade
over trustees.

[B. A. 69, ss. 57,
58.]

91. (1.) The Board of Trade shall take cognizance of the conduct of trustees, and in the event of any trustee not faithfully performing his duties, and duly observing all the requirements imposed on him by statute, rules or otherwise, with respect to the performance of his duties, or in the event of any complaint being made to

the Board by any creditor in regard thereto, the Board shall inquire into the matter and take such action thereon as may be deemed expedient.

(2.) The Board may at any time require any trustee to answer any inquiry made by them in relation to any bankruptcy in which the trustee is engaged, and may, if the Board think fit, apply to the Court to examine on oath the trustee or any other person concerning the bankruptcy.

(3.) The Board may also direct a local investigation to be made of the books and vouchers of the trustee.

PART VI.

CONSTITUTION, PROCEDURE, AND POWERS OF COURT.

Jurisdiction.

92. (1.) The Courts having jurisdiction in bankruptcy shall be the High Court and the county courts.

Jurisdiction to be exercised by High Court and county courts.

(2.) But the Lord Chancellor may from time to time, by order under his hand, exclude any county court from having jurisdiction in bankruptcy, and for the purposes of bankruptcy jurisdiction may attach its district or any part thereof to the High Court, or to any other county court or courts, and may from time to time revoke or vary any order so made. The Lord Chancellor may, in like manner, and subject to the like conditions, detach the district of any county court or any part thereof from the district and jurisdiction of the High Court.

[B. A. 69, s. 79.]

(3.) The term "district," when used in this Act with

reference to a county court, means the district of the court for the purposes of bankruptcy jurisdiction.

(4.) A county court which, at the commencement of this Act, is excluded from having bankruptcy jurisdiction, shall continue to be so excluded until the Lord Chancellor otherwise orders.

(5.) Periodical sittings for the transaction of bankruptcy business by county courts having jurisdiction in bankruptcy shall be holden at such times and at such intervals as the Lord Chancellor shall prescribe for each such court.

Consolidation of
London
Bankruptcy
Court with
Supreme Court
of Judicature.

[B. A. 69, s. 61.]

93. (1.) From and after the commencement of this Act the London Bankruptcy Court shall be united and form part of the Supreme Court of Judicature, and the jurisdiction of the London Bankruptcy Court shall be transferred to the High Court.

(2.) For the purposes of this union, consolidation, and transfer, and of all matters incidental thereto and consequential thereon, the Supreme Court of Judicature Act, 1873, as amended by subsequent Acts, shall, subject to the provisions of this Act, have effect as if the union, consolidation, and transfer had been effected by that Act, except that all expressions referring to the time appointed for the commencement of that Act shall be construed as referring to the commencement of this Act, and, subject as aforesaid, this Act, and the said above-mentioned Acts shall be read and construed together.

Transaction of
bankruptcy
business by
special judge of
High Court.

94. (1.) Subject to general rules, and to orders of transfer made under the authority of the Supreme Court of Judicature Act, 1873, and Acts amending it—

(a.) All matters pending in the London Bankruptcy Court at the commencement of this Act; and

- (b.) All matters which would have been within the exclusive jurisdiction of the London Bankruptcy Court if this Act had not passed ; and
- (c.) All matters in respect of which jurisdiction is given to the High Court by this Act,

shall be assigned to such Division of the High Court as the Lord Chancellor may from time to time direct.

(2.) All such matters shall, subject as aforesaid, be ordinarily transacted and disposed of by or under the direction of one of the judges of the High Court, and the Lord Chancellor shall from time to time assign a judge for that purpose.

(3.) Provided that during vacation, or during the illness of the judge so assigned, or during his absence, or for any other reasonable cause, such matters, or any part thereof, may be transacted and disposed of by or under the directions of any judge of the High Court named for that purpose by the Lord Chancellor.

(4.) Subject to the provisions of this Act, the officers, clerks, and subordinate persons who are, at the commencement of this Act, attached to the London Bankruptcy Court, and their successors, shall be officers of the Supreme Court of Judicature, and shall be attached to the High Court.

(5.) Subject to general rules, all bankruptcy matters shall be entitled, "In bankruptcy."

95. (1.) If the debtor against or by whom a bankruptcy petition is presented has resided or carried on business within the London bankruptcy district as defined by this Act for the greater part of the six months immediately preceding the presentation of the petition, or for a longer period during those six months than in the district of any county court, or is not resi-

Petition, where to be presented.

[B. A. 69, s. 59.]

dent in England, or if the petitioning creditor is unable to ascertain the residence of the debtor, the petition shall be presented to the High Court.

(2.) In any other case the petition shall be presented to the county court of the district in which the debtor has resided or carried on business for the longest period during the six months immediately preceding the presentation of the petition.

(3.) Nothing in this section shall invalidate a proceeding by reason of its being taken in a wrong court.

Definition of
the London
Bankruptcy
District.

[B. A. 69, s. 80.]

96. The London Bankruptcy District shall, for the purposes of this Act, comprise the City of London and the liberties thereof, and all such parts of the metropolis and other places as are situated within the district of any county court described as a metropolitan county court in the list contained in the Third Schedule.

Transfer of
proceedings
from court to
court.

[B. A. 69, s. 80.]

97. (1.) Subject to the provisions of this Act, every court having original jurisdiction in bankruptcy shall have jurisdiction throughout England.

(2.) Any proceedings in bankruptcy may at any time, and at any stage thereof, and either with or without application from any of the parties thereto, be transferred by any prescribed authority and in the prescribed manner from one court to another court, or may by the like authority be retained in the court in which the proceedings were commenced, although it may not be the court in which the proceedings ought to have been commenced.

(3.) If any question of law arises in any bankruptcy proceeding in a county court which all the parties to

the proceeding desire, or which one of them and the judge of the county court may desire to have determined in the first instance in the High Court, the judge shall state the facts, in the form of a special case, for the opinion of the High Court. The special case and the proceedings, or such of them as may be required, shall be transmitted to the High Court for the purposes of the determination.

98. Subject to the provisions of this Act and to general rules the judge of the High Court exercising jurisdiction in bankruptcy may exercise in chambers the whole or any part of his jurisdiction.

Exercise in chambers of High Court jurisdiction.

[B. A. 69, ss. 65, 67.]

99. (1.) The registrars in bankruptcy of the High Court, and the registrars of a county court having jurisdiction in bankruptcy, shall have the powers and jurisdiction in this section mentioned, and any order made or act done by such registrars in the exercise of the said powers and jurisdiction shall be deemed the order or act of the Court.

Jurisdiction in bankruptcy of registrar.

[B. A. 69, s. 67.]

(2.) Subject to general rules limiting the powers conferred by this section, a registrar shall have power—

- (a.) To hear bankruptcy petitions, and to make receiving orders and adjudications thereon :
- (b.) To hold the public examination of debtors :
- (c.) To grant orders of discharge where the application is not opposed :
- (d.) To approve compositions or schemes of arrangement when they are not opposed :
- (e.) To make interim orders in any case of urgency :
- (f.) To make any order or exercise any jurisdiction which by any rule in that behalf is prescribed as proper to be made or exercised in chambers :

(g.) To hear and determine any unopposed or *ex parte* application :

(h.) To summon and examine any person known or suspected to have in his possession effects of the debtor or to be indebted to him, or capable of giving information respecting the debtor, his dealings or property.

(3.) The Registrars in bankruptcy of the High Court shall also have power to grant orders of discharge and certificates of removal of disqualifications, and to approve compositions and schemes of arrangement.

(4.) A registrar shall not have power to commit for contempt of court.

(5.) The Lord Chancellor may from time to time by order direct that any specified registrar of a county court shall have and exercise all the powers of a bankruptcy registrar of the High Court.

Powers of
County Court.

[B. A. 69, s. 66.]

100. A county court shall, for the purposes of its bankruptcy jurisdiction, in addition to the ordinary powers of the Court, have all the powers and jurisdiction of the High Court, and the orders of the Court may be enforced accordingly in manner prescribed.

Board of Trade
to make pay-
ments in accor-
dance with
directions of
court.

101. Where any moneys or funds have been received by an official receiver or by the Board of Trade, and the Court makes an order declaring that any person is entitled to such moneys or funds the Board of Trade shall make an order for the payment thereof to the person so entitled as aforesaid.

General power
of Bankruptcy
Courts.

[B. A. 69, s. 72.]

102. (1.) Subject to the provisions of this Act, every court having jurisdiction in bankruptcy under this Act shall have power to decide all questions of priorities, and

all other questions whatsoever, whether of law or fact, which may arise in any case of bankruptcy coming within the cognizance of the Court, or which the Court may deem it expedient or necessary to decide for the purpose of doing complete justice or making a complete distribution of property in any such case.

(2.) Provided that the jurisdiction hereby given shall not be exercised by the county court for the purpose of adjudicating upon any claim, not arising out of the bankruptcy, which might heretofore have been enforced by action in the High Court, unless all parties to the proceeding consent thereto, or the money's worth, or right in dispute does not in the opinion of the judge exceed in value two hundred pounds.

The proviso appears intended to meet such cases as *ex p. Price*, 21 Ch. D. 553, C.A.

(3.) A Court having jurisdiction in bankruptcy under this Act shall not be subject to be restrained in the execution of its powers under this Act by the order of any other Court, nor shall any appeal lie from its decisions, except in manner directed by this Act.

(4.) If in any proceeding in bankruptcy there arises any question of fact which either of the parties desire to be tried before a jury instead of by the Court itself, or which the Court thinks ought to be tried by a jury, the Court may, if it thinks fit, direct the trial to be had with a jury, and the trial may be had accordingly, in the High Court, in the same manner as if it were the trial of an issue of fact in an action, and in the county court in the manner in which jury trials in ordinary cases are by law held in that court.

(5.) Where a receiving order has been made in the

High Court under this Act, the judge by whom such order was made shall have power, if he sees fit, without any further consent, to order the transfer to such judge of any action pending in any other division, brought or continued by or against the bankrupt.

(6.) Where default is made by a trustee, debtor, or other person in obeying any order or direction given by the Board of Trade or by an official receiver or any other officer of the Board of Trade under any power conferred by this Act, the Court may, on the application of the Board of Trade or an official receiver or other duly authorised person, order such defaulting trustee, debtor, or person to comply with the order or direction so given; and the Court may also, if it shall think fit, upon any such application make an immediate order for the committal of such defaulting trustee, debtor, or other person: Provided that the power given by this sub-section shall be deemed to be in addition to and not in substitution for any other right or remedy in respect of such default.

Judgment Debtors.

Judgment
debtor's sum-
mons to be
bankruptcy
business.

103. (1.) It shall be lawful for the Lord Chancellor by order to direct that the jurisdiction and powers under section 5 of the Debtors' Act, 1869, now vested in the High Court, shall be assigned to and exercised by the judge to whom bankruptcy business is assigned.

(2.) It shall be lawful also for the Lord Chancellor in like manner to direct that the whole or any part of the said jurisdiction and powers shall be delegated to and exercised by the bankruptcy registrars of the High Court.

(3.) Any order made under this section may, at any time, in like manner be rescinded or varied.

(4.) Every county court within the jurisdiction of which a judgment debtor is or resides shall have jurisdiction under section 5 of the Debtors' Act, 1869, although the amount of the judgment debt may exceed fifty pounds.

(5.) Where, under section 5 of the Debtors' Act, 1869, application is made by a judgment creditor to a court having bankruptcy jurisdiction for the committal of a judgment debtor, the Court may, if it thinks fit, decline to commit, and in lieu thereof, with the consent of the judgment creditor, and on payment by him of the prescribed fee, make a receiving order against the debtor. In such case the judgment debtor shall be deemed to have committed an act of bankruptcy at the time the order is made.

(6.) General rules under this Act may be made for the purpose of carrying into effect the provisions of the Debtors' Act, 1869.

Appeals.

104. (1.) Every court having jurisdiction in bankruptcy under this Act may review, rescind, or vary any order made by it under its bankruptcy jurisdiction.

Appeals in
bankruptcy.

[B. A. 69, s. 71.]

(2.) Orders in bankruptcy matters shall, at the instance of any person aggrieved, be subject to appeal as follows :

- (a.) An appeal shall lie from the order of a county court to Her Majesty's Court of Appeal :
- (b.) An appeal shall lie from the order of the High Court to Her Majesty's Court of Appeal :
- (c.) An appeal shall, with the leave of Her Majesty's Court of Appeal, but not otherwise, lie from the order of that Court to the House of Lords :

- (d.) No appeal shall be entertained except in conformity with such general rules as may for the time being be in force in relation to the appeal.

Procedure.

Discretionary
powers of the
Court.

105. (1.) Subject to the provisions of this Act and to general rules, the costs of and incidental to any proceeding in court under this Act shall be in the discretion of the court: Provided that where any issue is tried by a jury the costs shall follow the event, unless, upon application made at the trial, for good cause shown, the judge before whom such issue is tried shall otherwise order.

Compare O. LXV. v. 1, of the Rules of the Supreme Court, 1883.

(2.) The Court may at any time adjourn any proceedings before it upon such terms, if any, as it may think fit to impose.

(3.) The Court may at any time amend any written process or proceeding under this Act upon such terms, if any, as it may think fit to impose.

(4.) Where by this Act or by general rules, the time for doing any Act or thing is limited, the Court may extend the time either before or after the expiration thereof, upon such terms, if any, as the Court may think fit to impose.

Compare O. LXIV. v. 7 of the Rules of the Supreme Court, 1883.

(5.) Subject to general rules, the Court may in any matter take the whole or any part of the evidence either *viva voce*, or by interrogatories, or upon affidavit, or by commission abroad.

(6.) For the purpose of approving a composition or scheme by joint debtors, the Court may, if it thinks fit,

and on the report of the official receiver that it is expedient so to do, dispense with the public examination of one of such joint debtors if he is unavoidably prevented from attending the examination by illness or absence abroad.

106. Where two or more bankruptcy petitions are presented against the same debtor or against joint debtors, the Court may consolidate the proceedings, or any of them, on such terms as the Court thinks fit.

Consolidation of petitions.

[B. A. 69, s. 80.]

107. Where the petitioner does not proceed with due diligence on his petition, the Court may substitute as petitioner any other creditor to whom the debtor may be indebted in the amount required by this Act in the case of the petitioning creditor.

Power to change carriage of proceedings.

[B. A. 69, s. 80 (4).]

108. If a debtor by or against whom a bankruptcy petition has been presented dies, the proceedings in the matter shall, unless the Court otherwise orders, be continued as if he were alive.

Continuance of proceedings on death of debtor.

[B. A. 69, s. 80 (9).]

109. The Court may at any time, for sufficient reason, make an order staying the proceedings under a bankruptcy petition, either altogether or for a limited time, on such terms and subject to such conditions as the Court may think just.

Power to stay proceedings.

[B. A. 69, s. 80 (10).]

110. Any creditor whose debt is sufficient to entitle him to present a bankruptcy petition against all the partners of a firm may present a petition against any one or more partners of the firm without including the others.

Power to present petition against one partner.

[B. A. 69, s. 100.]

111. Where there are more respondents than one to a petition the Court may dismiss the petition as to one

Power to dismiss petition against some

respondents
only.

[B. A. 69, s. 101.]

or more of them without prejudice to the effect of the petition as against the other or others of them.

Property of
partners to
be vested in
same trustee.

[B. A. 69, s. 102.]

112. Where a receiving order has been made on a bankruptcy petition against or by one member of a partnership, any other bankruptcy petition against or by a member of the same partnership shall be filed in or transferred to the Court in which the first-mentioned petition is in course of prosecution, and, unless the Court otherwise directs, the same trustee or receiver shall be appointed as may have been appointed in respect of the property of the first-mentioned member of the partnership, and the Court may give such directions for consolidating the proceedings under the petitions as it thinks just.

Actions by
trustee and
bankrupt's
partners.

[B. A. 69, s. 105.]

113. Where a member of a partnership is adjudged bankrupt, the Court may authorise the trustee to commence and prosecute any action in the names of the trustee and of the bankrupt's partner; and any release by such partner of the debt or demand to which the action relates shall be void; but notice of the application for authority to commence the action shall be given to him, and he may show cause against it, and on his application the Court may, if it thinks fit, direct that he shall receive his proper share of the proceeds of the action, and if he does not claim any benefit therefrom he shall be indemnified against costs in respect thereof as the Court directs.

Actions on joint
contracts.

[B. A. 69, s. 112.]

114. Where a bankrupt is a contractor in respect of any contract jointly with any person or persons such person or persons may sue or be sued in respect of the contract without the joinder of the bankrupt.

115. Any two or more persons, being partners, or any person carrying on business under a partnership name, may take proceedings or be proceeded against under this Act in the name of the firm, but in such case the Court may, on application by any person interested, order the names of the persons who are partners in such firm or the name of such person to be disclosed in such manner, and verified on oath, or otherwise as the Court may direct.

Proceedings in
partnership
name.

For a limitation on this provision see s. 123.

Officers.

116. (1.) No registrar or other officer attached to any court having jurisdiction in bankruptcy shall, during his continuance in office, be capable of being elected or sitting as a member of the House of Commons.

Disabilities of
officers.
[B. A. 69, s. 69.]

(2.) No registrar or official receiver or other officer attached to any such court shall, during his continuance in office, either directly or indirectly, by himself, his clerk, or partner, act as solicitor in any proceeding in bankruptcy or in any prosecution of a debtor by order of the Court, and if he does so act he shall be liable to be dismissed from office:

Provided that nothing in this section shall affect the right of any registrar or officer appointed before the passing of this Act to act as solicitor by himself, his clerk, or partner to the extent permitted by Section 69 of the Bankruptcy Act, 1869.

Orders and Warrants of Court.

117. Any order made by a court having jurisdiction in bankruptcy in England under this Act shall be enforced in Scotland and Ireland in the courts having jurisdiction in bankruptcy in those parts of the United

Enforcement of
orders of courts
throughout the
United King-
dom.
[B. A. 69, s. 78.]

Kingdom respectively, in the same manner in all respects as if the order had been made by the Court hereby required to enforce it; and in like manner any order made by a court having jurisdiction in bankruptcy in Scotland shall be enforced in England and Ireland, and any order made by a court having jurisdiction in bankruptcy in Ireland shall be enforced in England and Scotland by the courts respectively having jurisdiction in bankruptcy in the part of the United Kingdom where the orders may require to be enforced, and in the same manner in all respects as if the order had been made by the Court required to enforce it in a case of bankruptcy within its own jurisdiction.

Courts to be
auxiliary to each
other.

[B. A. 69, s. 74.]

118. The High Court, the county courts, the courts having jurisdiction in bankruptcy in Scotland and Ireland, and every British court elsewhere having jurisdiction in bankruptcy or insolvency, and the officers of those courts respectively, shall severally act in aid of and be auxiliary to each other in all matters of bankruptcy, and an order of the court seeking aid, with a request to another of the said courts, shall be deemed sufficient to enable the other court to exercise, in regard to the matters directed by the order, such jurisdiction as either the court which made the request, or the court to which the request is made, could exercise in regard to similar matters within their respective jurisdictions.

Warrants of
Bankruptcy
Courts.

[B. A. 69, s. 76.]

119. (1.) Any warrant of a court having jurisdiction in bankruptcy in England may be enforced in Scotland, Ireland, the Isle of Man, the Channel Islands, and elsewhere in Her Majesty's dominions, in the same manner and subject to the same privileges in and subject to which a warrant issued by any justice of the peace

against a person for an indictable offence against the laws of England may be executed in those parts of Her Majesty's dominions respectively in pursuance of the Acts of Parliament in that behalf.

(2.) A search warrant issued by a court having jurisdiction in bankruptcy for the discovery of any property of a debtor may be executed in manner prescribed or in the same manner and subject to the same privileges in and subject to which a search warrant for property supposed to be stolen may be executed according to law.

120. Where the Court commits any person to prison, the commitment may be to such convenient prison as the Court thinks expedient, and if the gaoler of any prison refuses to receive any prisoner so committed he shall be liable for every such refusal to a fine not exceeding one hundred pounds.

Commitment to prison.

[B. A. 69. s. 77.]

PART VII.

SMALL BANKRUPTCIES.

121. When a petition is presented by or against a debtor, if the Court is satisfied by affidavit or otherwise, or the official receiver reports to the Court that the property of the debtor is not likely to exceed in value three hundred pounds, the Court may make an order that the debtor's estate be administered in a summary manner, and thereupon the provisions of this Act shall be subject to the following modifications :

Summary administration in small cases.

- (1.) If the debtor be adjudged bankrupt the official receiver shall be the trustee in the bankruptcy:
- (2.) There shall be no committee of inspection, but the official receiver may do with the permission of the Board of Trade all things which may be done by the trustee with the permission of the committee of inspection:
- (3.) Such other modifications may be made in the provisions of this Act as may be prescribed by general rules with the view of saving expense and simplifying procedure; but nothing in this section shall permit the modification of the provisions of this Act relating to the examination or discharge of the debtor:

Provided that the creditors may at any time, by special resolution, resolve that some person other than the official receiver be appointed trustee in the bankruptcy, and thereupon the bankruptcy shall proceed as if an order for summary administration had not been made.

Power for county court to make administration order instead of order for payment by instalments.

122. (1.) Where a judgment has been obtained in a county court and the debtor is unable to pay the amount forthwith, and alleges that his whole indebtedness amounts to a sum not exceeding fifty pounds, inclusive of the debt for which the judgment is obtained, the county court may make an order providing for the administration of his estate, and for the payment of his debts by instalments or otherwise, and either in full or to such extent as to the county court under the circumstances of the case appears practicable, and subject to any conditions as to his future earnings or income which the court may think just.

(2.) The order shall not be invalid by reason only

that the total amount of the debts is found at any time to exceed fifty pounds, but in such case the county court may, if it thinks fit, set aside the order.

(3.) Where, in the opinion of the county court in which the judgment is obtained, it would be inconvenient that that court should administer the estate, it shall cause a certificate of the judgment to be forwarded to the county court in the district of which the debtor or the majority of the creditors resides or reside, and thereupon the latter county court shall have all the powers which it would have under this section had the judgment been obtained in it.

(4.) Where it appears to the registrar of the county court that property of the debtor exceeds in value ten pounds, he shall, at the request of any creditor, and without fee, issue execution against the debtor's goods, but the household goods, wearing apparel, and bedding of the debtor or his family, and the tools and implements of his trade to the value in the aggregate of twenty pounds, shall to that extent be protected from seizure.

Compare s. 44 (2).

(5.) When the order is made no creditor shall have any remedy against the person or property of the debtor in respect of any debt which the debtor has notified to a county court, except with the leave of that county court, and on such terms as that court may impose; and any county court or inferior court in which proceedings are pending against the debtor in respect of any such debt shall, on receiving notice of the order, stay the proceedings, but may allow costs already incurred by the creditor, and such costs may, on application, be added to the debt notified.

(6.) If the debtor makes default in payment of any instalment payable in pursuance of any order under this section, he shall, unless the contrary is proved, be deemed to have had since the date of the order the means to pay the sum in respect of which he has made default and to have refused or neglected to pay the same.

• (7.) The order shall be carried into effect in such manner as may be prescribed by general rules.

(8.) Money paid into court under the order shall be appropriated first in satisfaction of the costs of the plaintiff in the action, next in satisfaction of the costs of administration (which shall not exceed two shillings in the pound on the total amount of the debts) and then in liquidation of debts in accordance with the order.

(9.) Notice of the order shall be sent to the registrar of county court judgments, and be posted in the office of the county court of the district in which the debtor resides, and sent to every creditor notified by the debtor, or who has proved.

(10.) Any creditor of the debtor, on proof of his debt before the registrar, shall be entitled to be scheduled as a creditor of the debtor for the amount of his proof.

(11.) Any creditor may in the prescribed manner object to any debt scheduled, or to the manner in which payment is directed to be made by instalments.

(12.) Any person who after the date of the order becomes a creditor of the debtor, shall, on proof of his debt before the registrar, be scheduled as a creditor of the debtor for the amount of his proof, but shall not be entitled to any dividend under the order until those creditors who are scheduled as having been creditors before the date of the order have been paid to the extent provided by the order.

(13.) When the amount received under the order is sufficient to pay each creditor scheduled to the extent thereby provided, and the costs of the plaintiff and of the administration, the order shall be superseded, and the debtor shall be discharged from his debts to the scheduled creditors.

(14.) In computing the salary of a registrar under the County Courts Acts every creditor scheduled, not being a judgment creditor, shall count as a plaintiff.

PART VIII.

SUPPLEMENTAL PROVISIONS.

Application of Act.

123. A receiving order shall not be made against any corporation or against any partnership or association, or company registered under the Companies Act, 1862. Exclusion of partnerships and companies. [B. A. 69, s. 5.]

Compare s. 115.

124. If a person having privilege of Parliament commits an act of bankruptcy, he may be dealt with under this Act in like manner as if he had not such privilege. Privilege of Parliament. [B. A. 69, s. 120.]

Compare ss. 32, 33.

125. (1.) Any creditor of a deceased debtor whose debt would have been sufficient to support a bankruptcy petition against such debtor, had he been alive, may present to the court a petition in the prescribed form praying for an order for the administration of the estate Administration in bankruptcy of estate of person dying insolvent.

of the deceased debtor, according to the Law of Bankruptcy.

(2.) Upon the prescribed notice being given to the legal personal representative of the deceased debtor, the court may, in the prescribed manner, upon proof of the petitioner's debt, unless the court is satisfied that there is a reasonable probability that the estate will be sufficient for the payment of the debts owing by the deceased, make an order for the administration in bankruptcy of the deceased debtor's estate, or may upon cause shown dismiss such petition with or without costs.

(3.) An order of administration under this section shall not be made until the expiration of two months from the date of the grant of probate or letters of administration, unless with the concurrence of the legal personal representative of the deceased debtor, or unless the petitioner proves to the satisfaction of the Court that the debtor committed an act of bankruptcy within three months prior to his decease.

(4.) A petition for administration under this section shall not be presented to the court after proceedings have been commenced in any court of justice for the administration of the deceased debtor's estate, but that court may in such case, on the application of any creditor, and on proof that the estate is insufficient to pay its debts, transfer the proceedings to the court exercising jurisdiction in bankruptcy, and thereupon such last-mentioned court may, in the prescribed manner, make an order for the administration of the estate of the deceased debtor, and the like consequences shall ensue as under an administration order made on the petition of a creditor.

(5.) Upon an order being made for the administra-

tion of a deceased debtor's estate, the property of the debtor shall vest in the official receiver of the court, as trustee thereof, and he shall forthwith proceed to realise and distribute the same in accordance with the provisions of this Act.

(6.) With the modifications hereinafter mentioned, all the provisions of Part III. of this Act, relating to the administration of the property of a bankrupt, shall, so far as the same are applicable, apply to the case of an administration order under this section in like manner as to an order of adjudication under this Act.

(7.) In the administration of the property of the deceased debtor under an order of administration, the official receiver shall have regard to any claim by the legal personal representative of the deceased debtor to payment of the proper funeral and testamentary expenses incurred by him in and about the debtor's estate, and such claims shall be deemed a preferential debt under the order, and be payable in full, out of the debtor's estate, in priority to all other debts.

(8.) If, on the administration of a deceased debtor's estate, any surplus remains in the hands of the official receiver, after payment in full of all the debts due from the debtor together with the costs of the administration and interest as provided by this Act in case of bankruptcy, such surplus shall be paid over to the legal personal representative of the deceased debtor's estate, or dealt with in such other manner as may be prescribed.

(9.) Notice to the legal personal representative of a deceased debtor of the presentation by a creditor of a petition under this section shall, in the event of an order for administration being made thereon, be deemed to be equivalent to notice of an act of bankruptcy, and after

such notice no payment or transfer of property made by the legal personal representative shall operate as a discharge to him as between himself and the official receiver; save as aforesaid nothing in this section shall invalidate any payment made or any act or thing done in good faith by the legal personal representative before the date of the order for administration.

(10.) Unless the context otherwise requires, "court," in this section, means the court within the jurisdiction of which the debtor resided or carried on business for the greater part of the six months immediately prior to his decease; "creditor" means one or more creditors qualified to present a bankruptcy petition, as in this Act provided.

(11.) General rules, for carrying into effect the provisions of this section, may be made in the same manner and to the like effect and extent as in bankruptcy.

This section is taken with some modification from the provisions of the Scotch Act.

Saving as to debts contracted before Act of 1861.

[B. A. 69, s. 118.]

126. No person, not being a trader within the meaning of the Bankruptcy Act, 1861, shall be adjudged bankrupt in respect of a debt contracted before the passing of that Act.

General Rules.

Power to make general rules.

[B. A. 69, s. 78.]

127. (1.) The Lord Chancellor may from time to time, with the concurrence of the President of the Board of Trade, make, revoke, and alter general rules for carrying into effects the objects of this Act.

(2.) All general rules made under the foregoing provisions of this section shall be laid before Parliament within three weeks after they are made if Parliament is then sitting, and if Parliament is not then sitting,

within three weeks after the beginning of the then next session of Parliament, and shall be judicially noticed, and shall have effect as if enacted by this Act.

(3.) Such general rules as may be required for purposes of this Act may be made at any time after the passing of this Act.

(4.) Provided always, that the said general rules so made, revoked, or altered, shall not extend the jurisdiction of the Court.

(5.) After the commencement of this Act no general rule under the provisions of this section shall come into operation until the expiration of one month after the same has been made and issued.

Fees, Salaries, Expenditure, and Returns.

128. (1.) The Lord Chancellor may, with the sanction of the Treasury from time to time prescribe a scale of fees and percentages to be charged for or in respect of proceedings under this Act; and the Treasury shall direct by whom and in what manner the same are to be collected, accounted for, and to what account they shall be paid. The Board of Trade, with the concurrence of the Treasury, shall direct whether any and what remuneration is to be allowed to any officer of, or person attached to the Board of Trade, performing any duties under this Act, and may from time to time vary, increase, or diminish such remuneration as they may see fit.

Fees and remuneration.

[B. A. 69, s. 69.]

(2.) This section shall come into operation on the passing of this Act.

129. (1.) The Lord Chancellor, with the concurrence of the Treasury, shall direct whether any and what remuneration is to be allowed to any person (other than

Judicial salaries, &c.

an officer of the Board of Trade) performing any duties under this Act, and may from time to time vary, increase, or diminish such remuneration as he may think fit.

(2.) This section shall come into operation on the passing of this Act.

Annual accounts of receipts and expenditure in respect of bankruptcy.

130. (1.) The Treasury shall annually cause to be prepared and laid before both Houses of Parliament an account for the year ending with the thirty-first day of March, showing the receipts and expenditure during that year in respect of bankruptcy proceedings, whether commenced under this or any previous Act, and the provisions of section 28 of the Supreme Court of Judicature Act, 1875, shall apply to the account as if the account had been required by that section.

(2.) The accounts of the Board of Trade, under this Act, shall be audited in such manner as the Treasury from time to time direct, and, for the purpose of the account to be laid before Parliament, the Board of Trade shall make such returns, and give such information as the Treasury may from time to time direct.

Returns by bankruptcy officers.

[B. A. 69, s. 115.]

131. The registrars and other officers of the courts acting in bankruptcy shall make to the Board of Trade such returns of the business of their respective courts and offices, at such times and in such manner and form as may be prescribed, and from such returns the Board of Trade shall cause books to be prepared which shall, under the regulations of the Board, be open for public information and searches.

The Board of Trade shall also cause a general annual report of all matters, judicial and financial within this

Act, to be prepared and laid before both Houses of Parliament.

Evidence.

132. (1.) A copy of the "London Gazette" containing any notice inserted therein in pursuance of this Act shall be evidence of the facts stated in the notice. "Gazette" to be evidence.
[B. A. 69, s. 10.]

(2.) The production of a copy of the "London Gazette" containing any notice of a receiving order, or of an order adjudging a debtor bankrupt, shall be conclusive evidence in all legal proceedings of the order having been duly made, and of its date.

133. (1.) A minute of proceedings at a meeting of creditors under this Act, signed at the same or the next ensuing meeting, by a person describing himself as, or appearing to be, chairman of the meeting at which the minute is signed, shall be received in evidence without further proof. Evidence of proceedings at meetings of creditors.
[B. A. 69, s. 108.]

(2.) Until the contrary is proved, every meeting of creditors in respect of the proceedings whereof a minute has been so signed shall be deemed to have been duly convened and held, and all resolutions passed or proceedings had thereat to have been duly passed or had.

134. Any petition or copy of a petition in bankruptcy, any order or certificate or copy of an order or certificate made by any Court having jurisdiction in bankruptcy, any instrument or copy of an instrument, affidavit, or document made or used in the course of any bankruptcy proceedings, or other proceedings had under this Act, shall, if it appears to be sealed with the seal of any Court having jurisdiction in bankruptcy, or purports to be signed by any judge thereof, Evidence of proceedings in bankruptcy.
[B. A. 69, s. 107.]

or is certified as a true copy by any registrar thereof, be receivable in evidence in all legal proceedings whatever.

Swearing of
affidavits.

135. Subject to general rules, any affidavit to be used in a bankruptcy court may be sworn before any person authorised to administer oaths in the High Court, or in the Court of Chancery of the county palatine of Lancaster, or before any registrar of a bankruptcy court, or before any officer of a bankruptcy court authorised in writing on that behalf by the judge of the court, or in the case of a person residing in Scotland or in Ireland, before a judge ordinary, magistrate or justice of the peace, or, in the case of a person who is out of the Kingdom of Great Britain and Ireland, before a magistrate or justice of the peace or other person qualified to administer oaths in the country where he resides (he being certified to be a magistrate or justice of the peace, or qualified as aforesaid by a British minister or British consul, or by a notary public).

Death of
witness.

[B. A. 69, s. 107.]

136. In case of the death of the debtor or his wife, or of a witness whose evidence has been received by any court in any proceeding under this Act, the deposition of the person so deceased, purporting to be sealed with the seal of the Court, or a copy thereof purporting to be so sealed, shall be admitted as evidence of the matters therein deposed to.

Bankruptcy
courts to have
seals.

[B. A. 69, s. 109.]

137. Every Court having jurisdiction in bankruptcy under this Act shall have a seal describing the Court in such manner as may be directed by order of the Lord Chancellor, and judicial notice shall be taken of the

seal, and of the signature of the judge or registrar of any such Court, in all legal proceedings.

138. A certificate of the Board of Trade that a person has been appointed trustee under this Act, shall be conclusive evidence of his appointment.

Certificate of appointment of trustee.

[B. A. 69, s. 18.]

139. Where by this Act an appeal to the High Court is given against any decision of the Board of Trade, or of the official receiver, the appeal shall be brought within twenty-one days from the time when the decision appealed against is pronounced or made.

Appeal from Board of Trade to High Court.

140. (1.) All documents purporting to be orders or certificates made or issued by the Board of Trade, and to be sealed with the seal of the Board, or to be signed by a secretary or assistant secretary of the Board, or any person authorised in that behalf by the President of the Board, shall be received in evidence, and deemed to be such orders or certificates without further proof unless the contrary is shown.

Proceedings of Board of Trade.

(2.) A certificate signed by the President of the Board of Trade that any order made, certificate issued, or act done, is the order, certificate or act of the Board of Trade shall be conclusive evidence of the fact so certified.

Time.

141. (1.) Where by this Act any limited time from or after any date or event is appointed or allowed for the doing of any act or the taking of any proceeding, then in the computation of that limited time the same shall be taken as exclusive of the day of that date or of the happening of that event, and as commencing at the beginning of the next following day; and the act

Computation of time.

[B. A. 69, s. 114.]

or proceeding shall be done or taken at latest on the last day of that limited time as so computed, unless the last day is a Sunday, Christmas Day, Good Friday, or Monday or Tuesday in Easter Week, or a day appointed for public fast, humiliation or thanksgiving, or a day on which the Court does not sit, in which case any act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, which shall not be one of the days in this section specified.

(2.) Where by this Act any act or proceeding is directed to be done or taken on a certain day, then if that day happens to be one of the days in this section specified, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, which shall not be one of the days in this section specified.

Notices.

Service of
notices.

142. All notices and other documents for the service of which no special mode is directed may be sent by prepaid post letter to the last known address of the person to be served therewith.

Formal Defects.

Formal defect
not to invali-
date proceed-
ings.

[B. A. 69,
ss. 82, 83.]

143. (1.) No proceeding in bankruptcy shall be invalidated by any formal defect or by any irregularity, unless the court before which an objection is made to the proceeding is of opinion that substantial injustice has been caused by the defect or irregularity, and that the injustice cannot be remedied by any order of that court.

(2.) No defect or irregularity in the appointment or

election of a receiver, trustee, or member of a committee of inspection shall vitiate any act done by him in good faith.

Stamp Duty.

144. Every deed, conveyance, assignment, surrender admission, or other assurance relating solely to freehold leasehold, copyhold, or customary property, or to any mortgage, charge, or other incumbrance on, or any estate, right or interest in any real or personal property which is part of the estate of any bankrupt, and which, after the execution of the deed, conveyance, assignment, surrender, admission or other assurance, either at law or in equity, is or remains the estate of the bankrupt or of the trustee under the bankruptcy, and every power of attorney, proxy paper, writ, order, certificate, affidavit, bond, or other instrument, or writing relating solely to the property of any bankrupt, or to any proceeding under any bankruptcy, shall be exempt from stamp duty, except in respect of fees under this Act.

Exemption of deeds, &c., from stamp duty.

[B. A. 69, s. 113.]

Executions.

145. Where the sheriff sells the goods of a debtor under an execution for a sum exceeding twenty pounds (including legal incidental expenses), the sale shall, unless the court from which the process issued otherwise orders, be made by public auction, and not by bill of sale or private contract, and shall be publicly advertised by the sheriff on and during three days next preceding the day of sale.

Sales under executions to be public.

146. (1.) The sheriff shall not under a writ of elegit deliver the goods of a debtor nor shall a writ of elegit extend to goods.

Writ of elegit not to extend to goods.

(2.) No writ of *levari facias* shall hereafter be issued in any civil proceeding.

As to the effect of seizing goods under an *elegit* before this Act—see *ex. p. Abbot*, 15 Ch. D, 447.

Bankrupt Trustee.

Application of
Trustee Act to
bankruptcy of
trustee.

[B. A. 69, s. 117.]

147. Where a bankrupt is a trustee within the Trustee Act, 1850, section thirty-two of that Act shall have effect so as to authorise the appointment of a new trustee in substitution for the bankrupt (whether voluntarily resigning or not), if it appears expedient to do so, and all provisions of that Act, and of any other Act relative thereto, shall have effect accordingly.

Corporations, &c.

Acting of
corporations,
partners, &c.

[B. A. 69, s. 80.]

148. For all or any of the purposes of this Act a corporation may act by any of its officers authorised in that behalf under the seal of the corporation, a firm may act by any of its members, and a lunatic may act by his committee or curator bonis.

Compare s. 115 as to firms.

Construction of former Acts, &c.

Construction of
Acts mentioning
commission of
bankruptcy,
&c.

[B. A. 69, s. 119.]

149. (1.) Where in any Act of Parliament, instrument or proceeding passed, executed, or taken before the commencement of this Act mention is made of a commission of bankruptcy or fiat in bankruptcy, the same shall be construed, with reference to the proceedings under a bankruptcy petition, as if a commission of or a fiat in bankruptcy had been actually issued at the time of the presentation of such petition.

(2.) Where by any act or instrument, reference is made to the Bankruptcy Act, 1869, the Act or in-

strument shall be construed and have effect as if reference were made therein to the corresponding provisions of this Act.

150. Save as herein provided the provisions of this Act relating to the remedies against the property of a debtor, the priorities of debts, the effect of a composition or scheme of arrangement, and the effect of a discharge shall bind the Crown.

Certain provisions to bind the Crown.

151. Nothing in this Act, or in any transfer of jurisdiction effected thereby shall take away or affect any right of audience that any person may have had at the commencement of this Act, and all solicitors or other persons who had the right of audience before the Chief Judge in Bankruptcy shall have the like right of audience in bankruptcy matters in the High Court.

Saving for existing rights of audience.

152. Nothing in this Act shall affect the provisions of the Married Women's Property Act, 1882.

Married women.

See 45 & 46 Vict. c. 75, ss. 1 (5), and 3.

Transitory Provisions.

153. (1.) The existing comptroller in bankruptcy and his officers, clerks, and servants shall not be attached to the Supreme Court, but shall in all respects act under the directions of the Board of Trade.

Comptroller of bankruptcy and his staff.

[B. A. 69, s. 55.]

(2.) The existing official assignee, provisional and official assignee of the estates and effects of insolvent debtors, and receiver of the Insolvent Debtors' Court, together with his staff, the official solicitors and the messenger in bankruptcy, together with his staff, and the accountant in bankruptcy and his staff, and also such other officers and clerks of the London Bankruptcy

Court as the Lord Chancellor, with the concurrence of the Board of Trade, may at any time select, shall be transferred to and become officers of the Board of Trade: provided that the Board of Trade, with the concurrence of the Lord Chancellor, may at any time transfer any such officer or clerk from the Board of Trade to the Supreme Court.

(3.) Subject to the provisions of this Act they shall hold their offices by the same tenure and on the same terms and conditions, and be entitled to the same rights in respect of salary and pension as heretofore, and their duties shall, except so far as altered with their own consent, be such as in the opinion of the Board of Trade are analogous to those performed by them at the commencement of this Act.

(4.) On the occurrence, at any time after the passing of this Act, of any vacancy in the office of any of the said persons the Board of Trade may, with the approval of the Treasury, make such arrangement as they think fit, either for the abolition of the office, or for its continuance under modified conditions, and may appoint a fit person to perform the remaining duties thereof, and the person so appointed shall have all the powers and authorities of the person who is at the passing of this Act the holder of such office; and all estates, rights, and effects vested at the time of the vacancy in any such officer shall by virtue of such appointment become vested in the person so appointed, and the like appointment on a vacancy shall be made, and the like vesting shall have effect from time to time as occasion requires. Provided that any person so appointed shall be an officer of the Board of Trade, and shall in all respects act under the directions of the Board of Trade.

(5.) The Board of Trade may, with the approval of the Lord Chancellor, from time to time direct that any duties or functions, not of a judicial character, relating to any bankruptcies, insolvencies, or other proceedings under any Act prior to the Bankruptcy Act, 1869, which were, at the time of the passing of this Act, performed or exercised by registrars of county courts shall devolve on and be performed by the official receiver, and thereupon all authorities and powers vested in the registrar, and all estates, rights and effects vested in the registrar shall become vested in the official receiver.

154. (1.) If the Lord Chancellor is of opinion that any office attached to the London Bankruptcy Court at the passing of this Act is unnecessary, he may, with the concurrence of the Treasury, at any time after the passing of this Act, abolish the office.

Power to
abolish existing
offices.

[B. A. 69, ss. 129,
131.]

(2.) The Treasury may, on the petition of any person whose office or employment is abolished by or under this Act, on the commencement of this Act or on any other event, enquire whether any, and if any, what compensation ought to be made to the petitioner, regard being had to the conditions on which his appointment was made, the nature of his office or employment, and the duration of his service; and if they think that his claim to compensation is established, may award to him, out of moneys to be provided by Parliament, such compensation, by annuity or otherwise, as under the circumstances of the case they think just and reasonable.

(3.) The Board of Trade may, under the like conditions and on the like terms, abolish any of the offices in the last preceding section mentioned.

Performance of
new duties by
persons whose
offices are
abolished.

[B. A. 69, s. 134.]

155. (1.) The Lord Chancellor or Board of Trade may, at any time after the passing of this Act appoint any person whose office is abolished under this Act to some other office under this Act, the duties of which he is in the opinion of the Lord Chancellor or Board competent to perform. Provided that the person so appointed shall during his tenure of the new office receive an amount of annual remuneration which, together with the compensation for the loss of the abolished office, is not less than the emoluments of the abolished office.

(2.) When, after the commencement of this Act, any officer is continued in the performance of any duties relating to bankruptcy or insolvency, under any previous Act, the Lord Chancellor, or, as the case may be, the Board of Trade may order that such officer may, in addition to such duties, perform any analogous duties under this Act, without being entitled to receive any additional remuneration.

Selection of
persons from
holders of
abolished
offices.

[B. A. 69, s. 132.]

156. Every person appointed to any office or employment under this Act shall in the first instance be selected from the persons (if any) whose office or employment is abolished under this Act, unless in the opinion of the Lord Chancellor, or in the case of persons to be appointed by the Board of Trade, of that Board, none of such persons are fit for such office or employment: Provided that the person so appointed or employed shall during his tenure of the new office be entitled to receive an amount of remuneration which, together with the compensation (if any) for loss of the abolished office, shall be not less than the emolument of the abolished office.

Acceptance of
public employ-

157. If any person to whom a compensation annuity

is granted under this Act accepts any public employment, he shall, during the continuance of that employment, receive only so much (if any) of that annuity as, with the remuneration of that employment, will amount to a sum not exceeding the salary or emoluments in respect of the loss whereof the annuity was awarded, and if the remuneration of that employment is equal to or greater than such salary or emoluments the annuity shall be suspended so long as he receives that remuneration.

ment by
annuitants.

[B. A. 69, s. 135.]

158. The registrars, clerks, and other persons holding their offices at the passing of this Act who may be continued in their offices, shall, on their retirement therefrom, be allowed such superannuation as they would have been entitled to receive if this Act had not been passed, and they had continued in their offices under the existing Acts.

Superannuation
of registrars,
&c.

[B. A. 69, s. 136.]

159. In every liquidation by arrangement under the Bankruptcy Act, 1869, pending at the commencement of this Act, if at any time after the commencement of this Act there is no trustee acting in the liquidation by reason of death, or for any other cause, such of the official receivers of bankrupts estates as is appointed by the Board of Trade for that purpose shall become and be the trustee in the liquidation, and the property of the liquidating debtor shall pass to and vest in him accordingly; but this provision shall not prejudice the right of the creditors in the liquidation to appoint a new trustee, in manner directed by the Bankruptcy Act, 1869, or the rules thereunder; and on such appointment the property of the liquidating debtor shall pass to and vest in, the new trustee.

Transfer of
estates on
vacancy of
office of
trustee in
liquidation
under the
Bankruptcy
Act, 1869.

The provisions of this Act with respect to the duties and responsibilities of and accounting by a trustee in a bankruptcy under this Act shall apply, as nearly as may be, to a trustee acting under the provisions of this section.

Transfer of
outstanding
property on
close of
bankruptcy or
liquidation.

160. Where a bankruptcy or liquidation by arrangement under the Bankruptcy Act, 1869, has been or is hereafter closed, any property of the bankrupt or liquidating debtor which vested in the trustee and has not been realised or distributed shall vest in such person as may be appointed by the Board of Trade for that purpose, and he shall thereupon proceed to get in, realise, and distribute the property in like manner and with and subject to the like powers and obligations as far as applicable, as if the bankruptcy or liquidation were continuing, and he were acting as trustee thereunder.

Transfer of
estates from
registrars of
London.

161. In every bankruptcy under the Bankruptcy Act, 1869, pending at the commencement of this Act, where a registrar of the London Bankruptcy Court or of any county court is or would hereafter but for this enactment become the trustee under the bankruptcy, such of the official receivers of bankrupts estates as may be appointed by the Board of Trade for that purpose shall from and after the commencement of this Act be the trustee in the place of the registrar, and the property of the bankrupt shall pass to and vest in the official receiver accordingly.

Unclaimed Funds or Dividends.

Unclaimed and
undistributed
dividends or
funds under

162. (1.) Where the trustee, under any bankruptcy, composition or scheme pursuant to this Act, shall have

under his control any unclaimed dividend which has remained unclaimed for more than six months, or where, after making a final dividend, such trustee shall have in his hands or under his control any unclaimed or undistributed moneys arising from the property of the debtor, he shall forthwith pay the same to the Bankruptcy Estates Account at the Bank of England. The Board of Trade shall furnish him with a certificate of receipt of the money so paid, which shall be an effectual discharge to him in respect thereof.

this and former
Acts.

(2.) (a.) Where, after the passing of this Act, any unclaimed or undistributed funds or dividends in the hands or under the control of any trustee or other person empowered to collect, receive, or distribute any funds or dividends under any Act of Parliament mentioned in the Fourth Schedule, or any petition, resolution, deed, or other proceeding under or in pursuance of any such Act, have remained or remain unclaimed or undistributed for six months after the same became claimable or distributable, or in any other case for two years after the receipt thereof by such trustee or other person, it shall be the duty of such trustee or other person forthwith to pay the same to the Bankruptcy Estates Accounts at the Bank of England. The Board of Trade shall furnish such Trustee or other person with a certificate of receipt of the money so paid, which shall be an effectual discharge to him in respect thereof.

(b.) The Board of Trade may at any time order any such trustee or other person to submit to them an account verified by affidavit of the sums received and paid by him under or in pursuance of any such petition, resolution, deed, or other proceeding as aforesaid, and may direct and enforce an audit of the account.

(c.) The Board of Trade, with the concurrence of the Treasury, may from time to time appoint a person to collect and get in all such unclaimed or undistributed funds or dividends, and for the purposes of this section any court having jurisdiction in bankruptcy shall have and at the instance of the person so appointed, or of the Board of Trade, may exercise all the powers conferred by this Act with respect to the discovery and realisation of the property of a debtor, and the provisions of Part 1 of this Act with respect thereto shall, with any necessary modifications, apply to proceedings under this section.

(3.) The provisions of this section shall not, except as expressly declared herein, deprive any person of any larger or other right or remedy to which he may be entitled against such trustee or other person.

(4.) Any person claiming to be entitled to any moneys paid in to the Bankruptcy Estates Account pursuant to this section may apply to the Board of Trade for payment to him of the same, and the Board of Trade, if satisfied that the person claiming is entitled, shall make an order for the payment to such person of the sum due.

Any person dissatisfied with the decision of the Board of Trade in respect of his claim may appeal to the High Court.

(5.) The Board of Trade may at any time after the passing of this Act open the account at the Bank of England referred to in this Act as the Bankruptcy Estates Account.

Punishment of Fraudulent Debtors.

Extension of
penal provisions
of 32 & 33 Vict.

163. (1.) Sections eleven and twelve of the Debtors Act, 1869, relating to the punishment of fraudulent

debtors, and imposing a penalty for absconding with property, shall have effect as if there were substituted therein for the words "if after the presentation of a bankruptcy petition against him," the words, "if after the presentation of a bankruptcy petition by or against him."

c. 62 to
petitioning
debtors, &c.

(2.) The provisions of the Debtors Act, 1869, as to offences by bankrupts shall apply to any person whether a trader or not in respect of whose estate a receiving order has been made as if the term "bankrupt" in that Act included a person in respect of whose estate a receiving order had been made.

164. Section sixteen of the Debtors Act, 1869, shall be construed and have effect as if the term "a trustee in any bankruptcy" included the official receiver of a bankrupt's estate, and shall apply to offences under this Act as well as to offences under the Debtors Act, 1869.

Power for
Court to order
prosecution on
report of official
receiver.

165. (1.) Where there is, in the opinion of the Court, ground to believe that the bankrupt or any other person has been guilty of any offence which is by statute made a misdemeanor in cases of bankruptcy, the Court may commit the bankrupt or such other person for trial.

Power for
Court to commit
for trial.

(2.) For the purpose of committing the bankrupt or such other person for trial the Court shall have all the powers of a stipendiary magistrate as to taking depositions, binding over witnesses to appear, admitting the accused to bail, or otherwise.

Nothing in this sub-section shall be construed as derogating from the powers or jurisdiction of the High Court.

Public Prosecutor to act in certain cases.

166. Where the Court orders the prosecution of any person for any offence under the Debtors Act, 1869, or Acts amending it, or for any offence arising out of or connected with any bankruptcy proceedings, it shall be the duty of the Director of Public Prosecutions to institute and carry on the prosecution.

Criminal liability after discharge or composition.

167. Where a debtor has been guilty of any criminal offence he shall not be exempt from being proceeded against therefor by reason that he has obtained his discharge or that a composition or scheme of arrangement has been accepted or approved.

Interpretation.

Interpretation of terms.

[B. A. 69 ss. 4, 16.]

168. (1.) In this Act, unless the context otherwise requires—

“The Court” means the Court having jurisdiction in bankruptcy under this Act :

“Affidavit” includes statutory declarations, affirmations, and attestations on honour :

“Available act of bankruptcy” means any act of bankruptcy available for a bankruptcy petition at the date of the presentation of the petition on which the receiving order is made :

“Debt provable in bankruptcy” or “provable debt” includes any debt or liability by this Act made provable in bankruptcy :

“Gazetted” means published in the London Gazette:

“General rules” include forms :

“Goods” includes all chattels personal :

“High Court” means Her Majesty’s High Court of Justice :

- “Local bank” means any bank in or in the neighbourhood of the bankruptcy district in which the proceedings are taken :
- “Oath” includes affirmation, statutory declaration, and attestation on honour :
- “Ordinary resolution” means a resolution decided by a majority in value of the creditors present, personally, or by proxy, at a meeting of creditors and voting on the resolution :
- “Person” includes a body of persons corporate or unincorporate :
- “Prescribed” means prescribed by general rules within the meaning of this Act :
- “Property” includes money, goods, things in action, land, and every description of property, whether real or personal and whether situate in England or elsewhere ; also, obligations, easements, and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property as above defined :
- “Resolution” means ordinary resolution.
- “Secured creditor” means a person holding a mortgage charge or lien on the property of the debtor, or any part thereof, as a security for a debt due to him from the debtor.
- “Schedule” means schedule to this Act :
- “Sheriff” includes any officer charged with the execution of a writ or other process :
- “Special resolution” means a resolution decided by a majority in number and three fourths in value of the creditors present, personally or by proxy, at a meeting of creditors and voting on the resolution :

“Treasury” means the Commissioners of Her Majesty’s Treasury :

“Trustee” means the trustee in bankruptcy of a debtor’s estate.

(2.) The schedules to this Act shall be construed and have effect as part of this Act.

Repeal.

Repeal of
enactments.

169. (1.) The enactments described in the Fifth Schedule are hereby repealed as from the commencement of this Act to the extent mentioned in that Schedule.

(2.) The repeal effected by this Act shall not affect—

- (a.) anything done or suffered before the commencement of this Act under any enactment repealed by this Act; nor
- (b.) any right or privilege acquired, or duty imposed, or liability or disqualification incurred, under any enactment so repealed; nor
- (c.) any fine, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed or to be committed against any enactment so repealed; nor
- (d.) the institution or continuance of any proceeding or other remedy, whether under any enactment so repealed, or otherwise, for ascertaining any such liability or disqualification, or enforcing or recovering any such fine, forfeiture, or punishment, as aforesaid.

(3.) Notwithstanding the repeal effected by this Act, the proceedings under any bankruptcy petition, liquidation by arrangement, or composition with creditors under the Bankruptcy Act, 1869, pending at

the commencement of this Act shall, except so far as any provision of this Act is expressly applied to pending proceedings, continue, and all the provisions of the Bankruptcy Act, 1869, shall, except as aforesaid, apply thereto, as if this Act had not passed.

170. After the passing of this Act no composition or liquidation by arrangement under sections 125 and 126 of the Bankruptcy Act, 1869, shall be entered into or allowed without the sanction of the court or registrar having jurisdiction in the matter; such sanction shall not be granted unless the composition or liquidation appears to the court or registrar to be reasonable and calculated to benefit the general body of creditors.

Proceedings
under 32 & 33
Vict. c. 71 ss.
125, 126.

SCHEDULES.

THE FIRST SCHEDULE.

MEETINGS OF CREDITORS.

1. The first meeting of creditors shall be summoned for a day not later than fourteen days after the date of the receiving order, unless the Court for any special reason deem it expedient that the meeting be summoned for a later day.

2. The official receiver shall summon the meeting by giving not less than seven days' notice of the time and place thereof in the "London Gazette" and in a local paper.

3. The official receiver shall also, as soon as practicable, send to each creditor mentioned in the debtor's statement of affairs, a notice of the time and place of the first meeting of creditors, accompanied by a summary of the debtor's statement of affairs, including the causes of his failure, and any observations thereon which the official receiver may think fit to make; but the proceedings at the first meeting shall not be invalidated by reason of any such notice or summary not having been sent or received before the meeting.

4. The meeting shall be held at such place as is in the opinion of the official receiver most convenient for the majority of the creditors.

5. The official receiver or the trustee may at any time summon a meeting of creditors, and shall do so whenever so directed by the Court, or so requested in writing by one-fourth in value of the creditors.

6. Meetings subsequent to the first meeting shall be summoned by sending notice of the time and place thereof to each creditor at the address given in his proof, or if he has not proved, at the address given in the debtor's statement of affairs, or at such other address as may be known to the person summoning the meeting.

7. The official receiver, or some person nominated by him shall be the chairman at the first meeting. The chairman at subsequent meetings shall be such person as the meeting by resolution appoint.

8. A person shall not be entitled to vote as a creditor at the first or any other meeting of creditors unless he has duly proved a debt provable in bankruptcy to be due to him from the debtor, and the proof has been duly lodged before the time appointed for the meeting.

9. A creditor shall not vote at any such meeting in respect of any unliquidated or contingent debt, or any debt the value of which is not ascertained.

10. For the purpose of voting, a secured creditor shall, unless he surrenders his security, state in his proof the particulars of his security, the date when it was given, and the value at which he assesses it, and shall be entitled to vote only in respect of the balance (if any) due to him, after deducting the value of his security. If he votes in respect of his whole debt he shall be deemed to have surrendered his security unless the Court on application is satisfied that the omission to value the security has arisen from inadvertence.

11. A creditor shall not vote in respect of any debt on or secured by a current bill of exchange or promissory note held by him, unless he is willing to treat the liability to him thereon of every person who is liable thereon antecedently to the debtor, and against whom a receiving order has not been made, as a security in his hands, and to estimate the value thereof, and for the purposes of voting, but not for the purposes of dividend, to deduct it from his proof.

12. It shall be competent to the trustee or to the official receiver, within twenty-eight days after a proof estimating the value of a security as aforesaid has been made use of in voting at any meeting, to require the creditor to give up the security for the benefit of the creditors generally on payment of the value so estimated, with an addition thereto of twenty per centum. Provided, that where a creditor has put a value on such security, he may, at any time before he has been required to give up such security, as aforesaid, correct such valuation by a new proof, and deduct such new value from his debt, but in that case such addition of twenty per centum shall not be made if the trustee requires the security to be given up.

13. If a receiving order is made against one partner of a firm, any creditor to whom that partner is indebted jointly with the other partners of the firm, or any of them, may prove his debt for the purpose of voting at any meeting of creditors, and shall be entitled to vote thereat.

14. The chairman of a meeting shall have power to admit or reject a proof for the purpose of voting, but his decision shall be subject to appeal to the Court. If he is in doubt whether the proof of a creditor

should be admitted or rejected he shall mark the proof as objected to, and shall allow the creditor to vote, subject to the vote being declared invalid in the event of the objection being sustained.

15. A creditor may vote either in person or by proxy.

16. Every instrument of proxy shall be in the prescribed form, and shall be issued by the official receiver, or, after the appointment of a trustee, by the trustee, and every insertion therein shall be in the handwriting of the person giving the proxy.

17. A creditor may give a general proxy to his manager or clerk, or any other person in his regular employment. In such case the instrument of proxy shall state the relation in which the person to act thereunder stands to the creditor.

18. A creditor may give a special proxy to any person to vote at any specified meeting or adjournment thereof, for or against any specific resolution, or for or against any specified person as trustee, or member of a committee of inspection.

19. A proxy shall not be used unless it is deposited with the official receiver or trustee before the meeting at which it is to be used.

20. Where it appears to the satisfaction of the Court that any solicitation has been used by or on behalf of a trustee or receiver in obtaining proxies, or in procuring the trusteeship or receivership, except by the direction of a meeting of creditors, the Court shall have power, if it think fit, to order that no remuneration shall be allowed to the person by whom or on whose behalf such solicitation may have been exercised notwithstanding any resolution of the committee of inspection or of the creditors to the contrary.

21. A creditor may appoint the official receiver of the debtor's estate to act in manner prescribed as his general or special proxy.

22. The chairman of a meeting may, with the consent of the meeting, adjourn the meeting from time to time, and from place to place.

23. A meeting shall not be competent to act for any purpose, except the election of a chairman, the proving of debts, and the adjournment of the meeting, unless there are present, or represented thereat, at least three creditors, or all the creditors if their number does not exceed three.

24. If within half-an-hour from the time appointed for the meeting, a quorum of creditors is not present or represented, the meeting shall be adjourned to the same day in the following week at the same time and place, or to such other day as the chairman may appoint, not being less than seven or more than twenty-one days.

25. The chairman of every meeting shall cause minutes of the pro-

ceedings at the meeting to be drawn up, and fairly entered in a book kept for that purpose, and the minutes shall be signed by him or by the chairman of the next ensuing meeting.

26. No person acting either under a general or special proxy shall vote in favour of any resolution which would directly or indirectly place himself, his partner or employer, in a position to receive any remuneration out of the estate of the debtor otherwise than as a creditor rateably with the other creditors of the debtor. Provided that where any person holds special proxies to vote for the appointment of himself as trustee he may use the said proxies and vote accordingly.

THE SECOND SCHEDULE.

PROOF OF DEBTS.

Proof in ordinary cases.

1. Every creditor shall prove his debt as soon as may be after the making of a receiving order.

2. A debt may be proved by delivering or sending through the post in a prepaid letter to the official receiver, or, if a trustee has been appointed, to the trustee, an affidavit verifying the debt.

3. The affidavit may be made by the creditor himself, or by some person authorised by or on behalf of the creditor. If made by a person so authorised it shall state his authority and means of knowledge.

4. The affidavit shall contain or refer to a statement of account showing the particulars of the debt, and shall specify the vouchers, if any, by which the same can be substantiated. The official receiver or trustee may at any time call for the production of the vouchers.

5. The affidavit shall state whether the creditor is or is not a secured creditor.

6. A creditor shall bear the cost of proving his debt, unless the Court otherwise specially orders.

7. Every creditor who has lodged a proof shall be entitled to see and examine the proofs of other creditors before the first meeting, and at all reasonable times.

8. A creditor proving his debt shall deduct therefrom all trade discounts but he shall not be compelled to deduct any discount, not

exceeding five per centum on the net amount of his claim, which he may have agreed to allow for payment in cash.

Proof by secured Creditors.

9. If a secured creditor realises his security, he may prove for the balance due to him, after deducting the net amount realised.

10. If a secured creditor surrenders his security to the official receiver or trustee for the general benefit of the creditors, he may prove for his whole debt.

11. If a secured creditor does not either realise or surrender his security, he shall, before ranking for dividend, state in his proof the particulars of his security, the date when it was given, and the value at which he assesses it, and shall be entitled to receive a dividend only in respect of the balance due to him after deducting the value so assessed.

12. (a.) Where a security is so valued the trustee may at any time redeem it on payment to the creditor of the assessed value.

(b.) If the trustee is dissatisfied with the value at which a security is assessed, he may require that the property comprised in any security so valued be offered for sale at such times and on such terms and conditions as may be agreed on between the creditor and the trustee, or as, in default of such agreement, the Court may direct. If the sale be by public auction, the creditor or the trustee on behalf of the estate may bid or purchase.

(c.) Provided that the creditor may at any time, by notice in writing, require the trustee to elect whether he will or not exercise his power of redeeming the security or requiring it to be realised, and if the trustee does not, within six months after receiving the notice, signify in writing to the creditor his election to exercise the power, he shall not be entitled to exercise it; and the equity of redemption, or any other interest in the property comprised in the security which is vested in the trustee, shall vest in the creditor, and the amount of his debt shall be reduced by the amount at which the security has been valued.

13. Where a creditor has so valued his security, he may at any time amend the valuation and proof on showing, to the satisfaction of the trustee or the Court, that the valuation and proof were made *bona fide* on a mistaken estimate, or that the security has diminished or increased in value since its previous valuation; but every such amendment shall be made at the cost of the creditor, and upon such terms as the Court

shall order, unless the trustee shall allow the amendment without application to the Court.

14. Where a valuation has been amended in accordance with the foregoing rule, the creditor shall forthwith repay any surplus dividend which he may have received in excess of that to which he would have been entitled on the amended valuation, or, as the case may be, shall be entitled to be paid out of any money for the time being available for dividend any dividend or share of dividend which he may have failed, to receive by reason of the inaccuracy of the original valuation, before that money is made applicable to the payment of any future dividend but he shall not be entitled to disturb the distribution of any dividend declared before the date of the amendment.

15. If a creditor after having valued his security subsequently realises it, or if it is realised under the provisions of Rule 13, the net amount realised shall be substituted for the amount of any valuation previously made by the creditor, and shall be treated in all respects as an amended valuation made by the creditor.

16. If a secured creditor does not comply with the foregoing rules he shall be excluded from all share in any dividend.

17. Subject to the provisions of Rule 13, a creditor shall in no case receive more than twenty shillings in the pound, and interest, as provided by this Act.

Proof in respect of Distinct Contracts.

18. If a debtor was at the date of the receiving order liable in respect of distinct contracts as a member of two or more distinct firms, or as a sole contractor, and also as member of a firm, the circumstance that the firms are in whole or in part composed of the same individuals, or that the sole contractor is also one of the joint contractors, shall not prevent proof in respect of the contracts against the properties respectively liable on the contracts.

Periodical Payments.

19. When any rent or other payment falls due at stated periods, and the receiving order is made at any time other than one of those periods, the person entitled to the rent or payment may prove for a proportionate part thereof up to the date of the order as if the rent or payment grew due from day to day.

Interest.

20. On any debt or sum certain, payable at a certain time or otherwise, whereon interest is not reserved or agreed for, and which is overdue at the date of the receiving order and provable in bankruptcy, the creditor may prove for interest at a rate not exceeding four per centum per annum to the date of the order from the time when the debt or sum was payable, if the debt or sum is payable by virtue of a written instrument at a certain time, and if payable otherwise, then from the time when a demand in writing has been made giving the debtor notice that interest will be claimed from the date of the demand until the time of payment.

Debt payable at a future time.

21. A creditor may prove for a debt not payable when the debtor committed an act of bankruptcy as if it were payable presently, and may receive dividends equally with the other creditors, deducting only thereout a rebate of interest at the rate of five pounds per centum per annum, computed from the declaration of a dividend to the time when the debt would have become payable, according to the terms on which it was contracted.

Admission or Rejection of Proofs.

22. The trustee shall examine every proof and the grounds of the debt, and in writing admit or reject it, in whole or in part, or require further evidence in support of it. If he rejects a proof he shall state in writing to the creditor the grounds of the rejection.

23. If the trustee thinks that a proof has been improperly admitted, the Court may, on the application of the trustee, after notice to the creditor who made the proof, expunge the proof or reduce its amount.

24. If a creditor is dissatisfied with the decision of the trustee in respect of a proof, the Court may, on the application of the creditor, reverse or vary the decision.

25. The Court may also expunge or reduce a proof upon the application of a creditor if the trustee declines to interfere in the matter, or, in the case of a composition or scheme, upon the application of the debtor.

26. For the purpose of any of his duties in relation to proofs, the trustee may administer oaths and take affidavits.

27. The official receiver, before the appointment of a trustee, shall have all the powers of a trustee with respect to the examination, admission, and rejection of proofs, and any act or decision of his in relation thereto shall be subject to the like appeal.

THE THIRD SCHEDULE.

LIST OF METROPOLITAN COUNTY COURTS.

The Bloomsbury County Court of Middlesex.
 The Bow County Court of Middlesex.
 The Brompton County Court of Middlesex.
 The Clerkenwell County Court of Middlesex.
 The Lambeth County Court of Surrey.
 The Marylebone County Court of Middlesex.
 The Shoreditch County Court of Middlesex.
 The Southwark County Court of Surrey.
 The Westminster County Court of Middlesex.
 The Whitechapel County Court of Middlesex.

THE FOURTH SCHEDULE.

STATUTES RELATING TO UNCLAIMED DIVIDENDS.

Session and Chapter.	Title of Act.
7 & 8 Vict. c. 70 .	An Act for facilitating arrangements between debtors and creditors.
12 & 13 Vict. c. 106 .	The Bankruptcy Law Consolidation Act, 1849.
24 & 25 Vict. c. 134 .	The Bankruptcy Act, 1861.
32 & 33 Vict. c. 71 .	The Bankruptcy Act, 1869.

THE FIFTH SCHEDULE.

ENACTMENTS REPEALED AS TO ENGLAND.

- 13 Edw. 1 The statutes of Westminster the Second, chapter
c.18. eighteen, execution either by levying of the lands
in part. and goods, or by delivery of goods and half the
land ; at the choice of the creditor ;
in part ; namely,
the words "all the chattels of the debtor saving only
his oxen and beasts of the plough, and "
- 32 & 33 Vict. The Debtor's Act, 1869.
c. 62.
in part. in part ; namely,
Sub-section (b) of section five, and
Sections twenty-one and twenty-two.
- 32 & 33 Vict. The Bankruptcy Act, 1869.
c.71
- 32 & 33 Vict. The Bankruptcy Repeal and Insolvent Court Act, 1869.
c. 83.
in part. in part ; namely.
Section nineteen.
- 33 & 34 Vict. The Absconding Debtors Act, 1870.
c. 76.
- 34 & 35 Vict. The Bankruptcy Disqualification Act, 1871.
c. 50. Except sections six, seven, and eight.
- 38 & 39 Vict. The Supreme Court of Judicature Act, 1875.
c. 77.
in part. in part ; namely,
Sections nine and thirty-two.

INDEX.

- ABSCONDING DEBTOR,**
Arrest of, 21.
When an act of bankruptcy to abscond, 2.
- ACCOUNTANT IN BANKRUPTCY,**
Transfer to Board of Trade, 62, 101.
- ACCOUNTING,**
By special manager, 8.
By official receiver, 60.
By trustee, 65.
By Board of Trade, 94.
- ACTIONS,**
Power to stay, 7.
Service of order to stay, 7.
By trustee and partners of bankrupt, 82.
On joint contracts, 82.
No action to lie for dividend, 55.
- ACTS OF BANKRUPTCY,**
List of, 2, 3.
Definition of "available," 110.
To be within three months of petition, 4.
- ADJOURNMENT,**
Of proceedings by court, 80.
Of meetings, 116.
- ADJUDICATION,**
In what cases to be made, 15.
For not submitting statement of affairs, 10.
After composition, 13, 19.
Effect of, 15, 16.
Notice of, 15.
Power to annul, 31, 32.
In small bankruptcies, 86.
Evidence of, 95.
- ADMINISTRATION ORDER,**
In case of small debtors, 86, 87.
Person dying insolvent, 89.
- ADMISSION OF PROOFS, 120.**
- AFFIDAVIT,**
Definition, 110.
Before whom to be sworn, 96.
- AFTER-ACQUIRED PROPERTY,**
Made liable as condition of discharge, 24.
Future earnings of small debtors, 86.
- ANNUITANTS,**
Acceptance of public employment by, 104, 105.
- ANNULMENT,**
Of adjudication, 29, 35.
Of composition on scheme, 13, 14, 19.
Of Receiving Order, 8.
- APPEAL,**
From Court to Court of Appeal, 79.
To House of Lords, 79.
From official receiver to Court, 121.
From trustee to Court, 70.
From Board of Trade to High Court, 97.
- APPRENTICE OR ARTICLED CLERK,**
Preferential claim of, 36.
- ARREST OF DEBTOR, 21.**
- ATTACHMENT OF DEBT. See Execution, 39.**
- AUCTION,**
Sales under executions to be by, 99.
When security to be sold by, 118.
- AUDIENCE, right of, 101.**
- AUDIT,**
Special manager's accounts, 8.
Official receivers' accounts, 60.
Trustees' accounts, 65.
Board of Trade accounts, 94.
- BANK OF ENGLAND,**
What payments to be made into, 62, 63.
How payments out to be made, 64.
Bankruptcy Estates, Account at, 62, 107.
- BANKRUPT,**
Property vests in trustee, 15, 38.
Duties as to discovery and realization of property, 22, 20.
Discharge of, 24, 28.
Undischarged, obtaining £20 credit, 28.
Inquiries into conduct of, 24, 25.
Appointment of, as manager, 55.
Allowance to, 55, 56.
After-acquired property, 24, 86.

BANKRUPT,

- Disqualifications of, 29, 30.
- Removal of disqualifications, 29, 30.
- When entitled to surplus, 56.
- Appeal against trustee, 70.
- May inspect trustee's accounts, 66.
- Punishment of fraudulent, 109, 110.
- See also *Debtor, Discharge, Property*.

BANKRUPTCY,

- Acts of. See *Acts of Bankruptcy*.
- Bankruptcy notice, 3, 5, 21.
- Bankruptcy petition. See also *Petition*, 4.
- Adjudication. See *Adjudication*.
- Commencement of, 37.
- Effect of, on antecedent transactions, 39, 41.
- Small bankruptcies, 85, 86.
- Under Act of 1869, 106.

BANKRUPTCY ESTATES ACCOUNT, 62, 107.**BENEFICE (Ecclesiastical),**

- Right of nomination to, 38.
- Sequestration of, 44.

BILL OF EXCHANGE,

- Voting by holder of, 115.

BOARD OF TRADE,

- To take part in making general rules, 92.
- Proof of orders and proceedings by, 97.
- Enforcement by Court of orders of, 78.
- To make payments when directed by Court, 76.
- Time of appeal from, to High Court, 97.
- To appoint official receivers, 56, 57, 60.
- Power to appoint officers, clerks, &c., 60.
- Power to fix salaries, &c., 93.
- Certain officers, &c., transferred to, 101, 102, 104.
- Power to abolish certain offices, 103.
- Treasury may grant sums in aid to, 65.
- Power to get in unclaimed dividends, &c., 107.
- Account of accountant in bankruptcy transferred to, 62.
- To open a bankruptcy estates account, 62, 107.
- Investments under direction of Treasury, 64, 65.
- Returns by bankruptcy officers to be made to, 94.
- Report by, to Parliament, 94, 95.
- To make returns to Treasury, 94.
- Audit of accounts of, by Treasury, 94.
- When to act as committee of inspection, 18.
- Control over special manager, 8.

BOARD OF TRADE,

- May intervene in public examination of debtor, 11, 58.
- Veto on appointment of trustee, 16.
- To appoint trustee in certain cases, 17.
- To certify trustee's appointment, 16, 97.
- Trustee to give security to, 16.
- Audit of trustee's accounts by, 65.
- Returns, &c., by trustees to, 66.
- Power to remove trustee, 69.
- Control over trustee, 63, 70, 78.
- May authorise account at local bank, 63.
- To grant release to trustee, 67.
- To give directions to official receiver, 58, 60.

BOOKS,

- To be kept by Board of Trade, 94.
- To be kept by trustee, 66.

BREACH OF TRUST,

- Proof for, 82.
- Effect of discharge on, 27, 28.

CHAMBERS, exercise of jurisdiction at, 75.**COMMITMENT,**

- To prison, 85.
- Receiving order in lieu of committal of judgment debtor, 79.
- Arrest of debtor, 21.

COMMITTEE OF INSPECTION,

- When to appoint trustee, 16.
- Appointment, action, and meetings of, 17, 18.
- When Board of Trade to act as, 18.
- Power to authorise account at local bank, 63.
- What acts of trustee require sanction of, 51, 55.
- Creditors may override, 70.
- May give directions to trustee, 70.
- May allow postponement of dividend, 73.
- None in small bankruptcies, 86.

COMPANY OR CORPORATION,

- Excluded from Act, 89.
- Power to act through officer, 100.

COMPENSATION on abolition of office, 103.**COMPOSITION, OR SCHEME OF ARRANGEMENT,**

- Without bankruptcy, 11, 14.
- Certain debts excepted from, 15.
- Effect on third parties, 14.
- After bankruptcy, 19.
- Crown to be bound by, 101.
- Effect on criminal liability, 110.
- Under Act of 1869, with leave of Court, 113.

COMPTROLLER IN BANKRUPTCY, 101.

CONSTRUCTION,
Acts or documents referring to re-
pealed Acts, 100.

CORPORATION. See *Company*.

COSTS,
Discretion of court over, 80.
Allowance and taxation of, 61, 62.

COUNTY COURTS,
To have bankruptcy jurisdiction, 71.
Exclusion from jurisdiction by Lord
Chancellor, 71.
When petition to be presented in, 73.
List of Metropolitan, 74, 121.
To have powers of High Court in
bankruptcy, 76.
Limit of jurisdiction over collateral
matters, 77.
Powers of registrars of, 75, 76.
Appeal from, 79.
Jurisdiction over judgment debtors,
79.
Small debtors, 86.
See also *Court*. *High Court*.

COURT,
Definition of "the Court," 110.
Districts of various courts, 71, 72.
In what court proceedings to be
commenced, 74.
Transfer of proceedings from court
to court, 74.
Exercise of jurisdiction in cham-
bers, 75.
Exercise of jurisdiction of, by
registrar, 75.
General powers of, 76, 77.
Board of Trade, to make payments
according to orders of, 76.
May enforce orders of Board of
Trade, 78.
Powers under section 5 of the Debtors'
Act, 1869, 78.
Appeals from, 79.
Jurisdiction to make receiving
order, 4.
Power to stay actions, executions,
&c., 7.
Power to appoint receiver, 7.
Hearing of petition by, 5.
Rules as to procedure in, 80, 81.
Control over disclaimers, 48, 49.
Commitment to prison by, 85.
To have seals, 96.
Orders to be enforced throughout the
United Kingdom, 88.
Courts to be auxiliary to each
other, 84.
Warrants of bankruptcy courts,
84, 85.
See also *High Court*. *Evidence*.

COURT FEES and Percentages, 93.

CREDITORS,
Secured. See *Secured Creditor*.

CREDITORS,
Conditions on which creditor may
petition, 4, 5.
Meetings of. See *Meetings*.
Acceptance of composition or scheme
by, 11, 19.
May take part in public examination
of debtor, 10.
May be heard as to debtor's dis-
charge, 26.
Voting by. See *Votes, Proxy*.
Proof by. See *Proof*.
May give directions to trustee, 69, 70.
Trustee to be appointed by, 15, 16, 69.
Removal of trustee by, 68.
May inspect trustee's books, 66.
Trustee to furnish list of creditors
to, 66.
May inspect trustee's filed accounts,
65, 66.
Committee of inspection to be ap-
pointed by, 17.
May override committee of inspec-
tion, 70.

CRIMINAL PROCEEDINGS,
Against fraudulent debtors, 108, 109.
Undischarged bankrupt obtaining
credit, 28.
Discharge or composition not to bar,
110.

CROWN,
To be bound by certain provisions, 101.

DEATH,
Continuance of proceedings if debtor
dies, 81.
Administration of estate of person
dying insolvent, 89, 90.
Evidence of witness who dies, 96.

DEBT,
Of petitioning creditor, 4, 5.
When excepted from order of dis-
charge, 27, 28.
Payment in full, defined, 82.
When excepted from composition, 15.
Provable in bankruptcy, 82, 110.
Rules as to proof of, 84, 117.

DEBTOR,
Power to petition, 4, 6.
Petition against, if not resident in
England, 4.
Arrest of absconding, 21.
Statement of affairs by, 9, 59.
Public examination of, 10, 12, 81.
May propose composition or scheme,
11.
Investigation of conduct of, by
official receiver, 58.
Control over person and property of,
19, 24.
Duties of official receiver, as to estate
of, 58, 59.

- DEBTOR,**
 Effect of receiving order on property of, 6, 7.
 Punishment of fraudulent, 108, 109.
 See also *Bankrupt*.
- DEBTOR'S ACT, 1869,**
 Judgment debtor summonses under, 78.
 Extension of criminal provisions of, 109, 110.
- DISCHARGE OF BANKRUPT,**
 Conditions on which it may be granted, 24, 25.
 May be absolute or conditional, 24.
 Effect of order of, 27.
 When it removes disqualifications, 29.
 Binds the Crown, 101.
 Discharged bankrupt to aid in realizing property, 26.
 Not to affect criminal proceeding, 110.
 Undischarged bankrupt obtaining credit, 28.
- DISCLAIMER,**
 Of onerous property, 47.
- DISCOUNT,**
 Deduction of trade, from proof, 117, 118.
- DISCOVERY OF DEBTOR'S PROPERTY, 22, 23.**
- DISTRESS FOR RENT, 37.**
- DISQUALIFICATIONS,**
 Of bankrupt, 29, 32.
 Of officers in bankruptcy, 83.
- DISTRIBUTION OF PROPERTY,**
 Rules as to, 52, 56.
- DIVIDENDS,**
 Declaration and distribution of, 52.
 Joint and separate estate, 53, 119.
 Creditors residing at a distance 54.
 Creditor proving after dividend, 54.
 Final dividend, 54, 55.
 No action for, 55.
 Under administration order, 86.
 When proof amended, 119.
 On debt payable *in futuro*, 120.
 Unclaimed, or undistributed, 106, 107.
- ELEGIT,**
 Writ not to extend to goods, 99.
- EVIDENCE,**
 Court may take *viva voce*, or otherwise, 80.
 "Gazette" to be evidence, 95.
 Of proceedings at creditors' meetings, 95.
 Of proceedings in bankruptcy, 95.
 Affidavits, 96.
 Death of witness, 96.
 Seals and signature of court, &c., 96, 97.
- EVIDENCE,**
 Certificate of trustee's appointment 97.
 Orders and proceedings of Board of, Trade, 97.
- EXAMINATION,**
 Public, of debtor, 10, 12, 81.
 Of debtor as to property, 20, 22, 23.
 Of other persons as to property, 22, 23.
- EXECUTION,**
 Levied by seizure and sale an act of bankruptcy, 2.
 Power to stay after receiving order, 7.
Elegit not to extend to goods, 99.
Levare facias abolished, 100.
 Sales under, to, or by public auction, 99.
 Restriction on rights of execution creditor, 3.
 Duties of sheriff as to executions, 39, 40.
 Rights of purchaser under sheriff, 40.
 Household goods, &c., to £20, protected, 87.
- EXPENDITURE,**
 Treasury may grant sums in aid of, 65.
- FEES AND PERCENTAGES,**
 Power to fix, and collection of, 93.
 Application in aid of expenditure, 65.
 Regard to investments in fixing, 65.
- FORMAL DEFECTS,**
 Not to invalidate proceedings, 98.
 Power to amend, 80.
- FRAUD,**
 No discharge from debts incurred by, 27.
 Punishment of fraudulent debtor, 108, 109.
- FRAUDULENT CONVEYANCE,**
 Act of bankruptcy, 2.
- FRAUDULENT PREFERENCE,**
 Act of bankruptcy, 2.
 Avoidance of, 41, 42.
- "GAZETTE" TO BE EVIDENCE, 95.**
- GENERAL RULES,**
 Power to make, 92.
 Include forms, 110.
- GOODS, definition of, 110.**
- HIGH COURT,**
 To have bankruptcy jurisdiction, 71.
 London Bankruptcy Court merged in, 72.
 Judge of to be specially assigned to bankruptcy, 72, 73.

HIGH COURT,
 Transfer of business and officers to, 73.
 London bankruptcy district, 74.
 County court may state special case for, 75.
 Powers of registrars of, 75, 76.
 General powers and jurisdiction in bankruptcy, 77.
 Powers over judgment debtors under Debtor's Act, 1869, 78.
 Appeal from to Court of Appeal, 79.
 Appeal from Board of Trade to, 16, 67, 69, 97.
 Rights of audience in, 101.

HOUSEHOLD GOODS, &c.,
 Under £20, when protected from execution, 87.

HOUSE OF LORDS,
 Appeal to, 79.
 Bankruptcy of peers, 29.

INTEREST,
 Proof in respect of, 120.
 Surplus to go to, after debts paid, 36.

INTERPRETATION CLAUSE, 110.

JOINT AND SEPARATE ESTATES,
 Proof against, 35, 119.
 Dividends on, 53. See *Partnership*.

JURY,
 Questions of fact may be tried by, 77.

LANDLORD, right of distress, 37.

LEASE, disclaimer of, 48.

LETTERS, re-direction of debtors', 22.

LIABILITY, definition of provable, 33.

LIQUIDATION UNDER ACT OF 1869,
 Leave of the court required, 113.
 Provisions as to pending, 105, 106.

LOCAL BANK, account at, 63, 111.

LONDON BANKRUPTCY COURT,
 Jurisdiction transferred to High Court, 72.
 Pending matters to go to High Court, 72, 73.
 Transfer of staff to High Court, 73.
 Certain officers of, transferred to Board of Trade, 101, 102.

LONDON BANKRUPTCY DISTRICT, 74, 121.

LORD CHANCELLOR,
 To make general rules, 92.
 To prescribe fees and percentages, 93.
 To fix judicial officers' salaries, &c., 93.

LORD CHANCELLOR,
 To give bankruptcy jurisdiction to county courts, 71.
 Power to alter districts, 71.
 May transfer certain officers to Board of Trade, 103.
 Power to abolish certain offices, 104.
 May appoint abolished officers to other posts, 104, 105.
 May assign certain functions of registrars to official receivers, 103.

LUNATIC,
 Power to act by committee or curator, 100.

MARRIED WOMEN,
 Saving for Act of 1882, 101.
 Marriage settlements, 40, 41.

MEETINGS OF CREDITORS,
 When first, to be held, 9, 114.
 Object of first meeting, 9, 11.
 Debtor to attend, 20.
 Power to call meetings, 70.
 Notice of, and rules as to proceedings at, 114-116.
 Evidence of proceedings at, 95.

MEMBER OF PARLIAMENT,
 Disqualified by bankruptcy, 29, 30.

MESSENGER IN BANKRUPTCY, 101.

MUTUAL CREDIT, 34.

NOTICES,
 Of meetings, 114.
 How served, 98.
 Of order to stay proceedings, 7.

OFFICERS,
 Sequestration of pay or salary, 45.

OFFICERS (BANKRUPTCY),
 Power of Board of Trade to appoint, 60.
 Remuneration and salary of, 93, 94.
 Disabilities of, 83.
 Attachment of certain, to High Court, 73.
 Transfer of certain, to Board of Trade, 11.
 Performance of new duties by persons whose offices are abolished, 104.
 Selections of officers from holders of abolished offices, 104, 105.
 Superannuation of, 105.

OFFICES, abolition of, 102, 105.

OFFICIAL ASSIGNEE AND SOLICITOR, 101.

OFFICIAL RECEIVER,
 Appointment and removal of, 56, 60.
 Is an officer of the court, 56.
 Numbers and districts, 56, 57.

OFFICIAL RECEIVER, *

- Deputy for, 57.
- General powers of, 57.
- When included in term "trustee," 57, 58, 109.
- Duties as regards conduct of debtor, 58.
- Duties as to estate of debtor, 58.
- Remuneration of, 93.
- Disobeying orders of Board of Trade, 56, 78.
- Assignment of to particular estates, 6, 56.
- Appointment by or before receiving order, 6, 7.
- Power to appoint special manager, 9.
- Duties as to first meeting, 114.
- May hold proxies, 116.
- Admission or rejection of proofs by, 121.
- Duty in relation to debtor's statement of affairs, 9.
- To report on compositions or schemes, 12, 15.
- Part of, in public examination, 11.
- To report as to discharge of debtor, 24, 26.
- To act as trustee during vacancy, 69.
- To administer estates of deceased insolvent, 91.
- To be trustee in small bankruptcies, 86.
- Trustee to give information to, 58.
- Not to act as solicitor in bankruptcy, 83.

ONEROUS PROPERTY,

- Disclaimer of, 47, 49.

ORDER AND DISPOSITION, 38, 39.**ORDERS,**

- Of Court, to be enforced throughout United Kingdom, 83, 84.
- Court may enforce, of Board of Trade, 78.

ORDINARY RESOLUTION, defined, 111.**PARTNERSHIP,**

- Proceedings in name of, 83.
- Petition against one partner, 81.
- Property of partners to be vested in same trustee, 82.
- Action by trustee, and bankrupt's partners, 82.
- Actions on joint contracts, 82, 83.
- Proof against debtor partner in two firms, &c., 119.
- Dividends from joint and separate estate, 53.
- Proof against joint and separate estate, 85, 119.
- Firm may act by any member, 100.
- PARTNER**, disqualified by bankruptcy, 29.

PERIODICAL PAYMENTS,

- Proof in respect of, 119.

PETITION,

- By debtor, 6.
- Conditions under which creditors may petition, 4, 5.
- Power to stay or dismiss, 5, 81, 82.
- Consolidation of petitions, 81.
- Power to change carriage of proceedings, 81.
- Effect of debtor's death, 81.
- Against one partner, 81.
- By or against firm, 83.
- Not to be withdrawn without leave, 6.
- Service of, 5.
- Where to be presented, 73.

PREFERENCES,

- Avoidance of fraudulent, 41, 42.

PREFERENTIAL CLAIMS AND PRIORITIES, 34-36.**PRIVILEGE OF PARLIAMENT, 89.****PROOF OF DEBT,**

- What debts provable, 32, 34.
- Mutual credit and set off, 34.
- Rules as to proof, 34, 117, 120.
- Admission and rejection of, 120.
- Priorities, 35, 36.
- Partners. See *Partnership*.

PROPERTY OF DEBTOR,

- Definition of, 111.
- Effect of receiving order on, 6, 7.
- Effect of adjudication on, 15, 16.
- What passes to trustee, or not, 37, 38.
- Seizure of, under warrant, 44.
- Discovery of, 22, 23.
- After acquired, when liable, 24, 86.
- Rules for realization of, 43, 47.
- Disclaimer of onerous, 47, 49.
- Vesting and transfer of, 46.
- Powers of trustee to deal with, 50.
- Committee of inspection to sanction certain dealings, 51, 52.

PROTECTED TRANSACTIONS, 42.**PROXIES,**

- Rules as to, 116.
- Official receiver may hold, 116.
- Holder, of may join committee of inspection, 17.

PUBLIC PROSECUTOR,

- To act in certain cases, 110.

RATES AND TAXES,

- Priority of, 34, 35.

RECEIVER. See *Official Receiver*.**RECEIVING ORDER,**

- Jurisdiction to make, 4.
- Effect of, 6, 7.
- Advertisement of, 8.

RECEIVING ORDER,
 Execution creditors' rights after, 39, 40.
 Debts contracted after, 33.
 In lieu of committal of judgment debtor, 78.

REGISTRAR,
 Jurisdiction of, in bankruptcy, 75, 76.
 Jurisdiction as to judgment debtors, 78.
 Disabilities of, 116.
 Remuneration of, 93, 94.
 Superannuation of, 105.
 Transfer of London, to High Court, 73.
 Certain estates vested in, transferred to official receiver, 103, 105, 106.

RELATION BACK,
 Title of trustee, 37.
 Of disclaimer, 47, 48.

RENT,
 Distress for, 37.
 Proof for, 119.

REPEALS, 112, 122.

REPUTED OWNERSHIP, 38, 39.

RETURNS,
 By officers of courts to Board of Trade, 94.
 By Board of Trade, 94.
 By Treasury, 94.

RULES,
 Power to make, 92.
 Include forms, 110.

SALARIES. See Officers.

SALES BY AUCTION,
 Goods taken in execution, 99.
 Property held as security, 118.

SCHEME OF ARRANGEMENT. See Composition.

SEARCH-WARRANT, 44, 85.

SECURED CREDITOR,
 Defined, 111.
 Petition by, 4, 5.
 Right to realize, 7.
 Voting by, 115.
 Rules as to proof by, 111.

SET-OFF, 34.

SETTLEMENT,
 Avoidance of voluntary, 40, 41.

SHERIFF,
 Duty to hold goods taken in execution, 39, 40.
 To sell by public auction, 99.
 Definition of, 111.

SMALL BANKRUPTCIES,
 Summary administration, if assets under £300, 85.
 County court debtors, 86, 88.

SOLICITOR,
 Remuneration of, if trustee, 61.
 Registrar, &c., not to act as, in bankruptcy, 83.
 Taxation of costs of, 62.

SPECIAL MANAGER, 8, 61.

SPECIAL RESOLUTION,
 Definition of, 111.

STAMP DUTY,
 Exemptions from, 99.

STATEMENT OF AFFAIRS,
 Submission of, by debtor, 9.
 Assistance in preparation of, 59, 60.

SURPLUS,
 Application of, if any, 36, 56.

TAXATION,
 Of costs, bills, charges, &c., 61, 62.

TIME,
 Computation of, 97.
 Power to extend, 80.

TRANSITORY PROVISIONS.

TREASURY,
 To discharge bankrupt from certain debts, 27.
 Control over bankruptcy estates account, 63.
 Power to invest surplus funds, 64.
 May make grant in aid to Board of Trade, 65.
 Control over salaries, &c., 93.
 Audit of Board of Trade Accounts, 94.
 To make return of receipts and expenditure to Parliament, 94.
 Board of Trade to make returns to, 94.
 Fees and percentages, 93.
 Number and districts of official receivers, 56.
 Consent to abolition of offices, 102.
 Compensation to abolished officers, 103.

TRUSTEE IN BANKRUPTCY,
 How appointed, 15, 16.
 Veto of Board of Trade on appointment, 16.
 Security to be given by, 16.
 Removal of, 68, 69.
 Office vacated by insolvency, 68.
 Improper solicitation of votes, 116.
 May vote and hold proxy for his own appointment, 117.
 Joint or successive trustees, 68.
 Official name, 68.

- TRUSTEE IN BANKRUPTCY,
 - Limitation on voting powers of, 69.
 - Remuneration of, 60.
 - Costs incurred by, 61.
 - Payments into bank, 62, 63.
 - Not to pay into private account, 64.
 - Audit of accounts, 65.
 - Books to be kept by, 66.
 - Annual statement of proceedings, 66.
 - To furnish list of creditors, 66.
 - Release when estate wound up, 67.
 - Control of creditors over, 69, 70.
 - Appeal to court against decision of, 70.
 - Supervision of Board of Trade over, 70, 71.
 - Disobedience to order of Board of Trade, 78.
 - Admission and rejection of proofs by, 120.
 - Power to administer oaths, 121.
 - Retaining unclaimed dividends, 107.
 - Relation back of title, 37, 39.
 - What property vests in, 38, 46.
 - Disclaimer by of onerous property, 47.
 - Power to deal with property, 50, 52.
 - Power and duty to summon meetings, 70.
- TRUSTEE IN BANKRUPTCY,
 - Control over debtor, 19, 23.
- See also *Bankrupt. Official Receiver.*
- TRUSTEE (*Under composition or scheme*), 14.
- UNCLAIMED FUNDS OR DIVIDENDS 106, 108.
- UNDISCHARGED BANKRUPT,
 - Obtaining £20 credit, 28.
- VOTES,
 - Limitation in voting powers of trustee, &c., 69, 116, 117.
 - By holder of bill or note, 115.
 - Rules as to votes, 115, 116.
 - Secured creditor voting, 115, 116.
 - Proxies, 116.
- WAGES,
 - To be a preferential debt, 35.
 - Future earnings of small debtors, 86.
- WARRANTS OF BANKRUPTCY COURTS, 86.
- WRIT OF ELEGIT, 99.

WATERLOW & SONS LIMITED,

Law, Parliamentary and General Stationers.

WRITING AND ENGROSSING.

WATERLOW & SONS LIMITED have a large and competent staff of Clerks constantly engaged at their City and West End Establishments, and are enabled to undertake that Deeds or other documents, of whatever length, shall be carefully and correctly engrossed or copied, and returned if required, by Return Mail, or within a few hours after the receipt of the drafts.

LAW LITHOGRAPHY.

The staff retained by WATERLOW & SONS LIMITED in this department is capable of completing in a few hours an amount of work which would formerly have required as many days. Briefs, Abstracts, Minutes of Evidence, Reports, and Legal Documents, Builders' Quantities, Specifications, &c., lithographed with the greatest accuracy, in good plain round hand. A Brief of 100 sheets can be lithographed in three or four hours.

ILLUMINATED ADDRESSES, VOTES OF THANKS, &c.

WATERLOW & SONS LIMITED have attained a high degree of perfection in this department. Numerous works of great artistic beauty have been executed by them for presentation to Her Majesty, the Prince and Princess of Wales, and other important personages.

LETTER-PRESS PRINTING

For Chancery Bills and Answers, Pleadings and Proceedings under the Judicature Act, Memoranda and Articles of Association, Particulars of Sale, Circulars, Notices, Special Forms, &c., &c. The Company offer the advantages of an extensive and varied assortment of Type and the aid of Machinery of the most approved construction.

100 Copies of an ordinary Particulars of Sale and Plan can be executed in one day, if required.

PARCHMENT.

An extensive stock of the best Parchment, plain or ruled and red lined, for Indentures, Followers and Bookway Skins, or with black lines for Probates of Wills.

LAW FORMS.

Writes, Notices, &c., under the Judicature Acts, Probate Forms, Drafts and Precedents, Bills of Sale, &c., Bankruptcy Forms, Joint-Stock Companies' Forms, &c., &c.

COPYING PRESSES,

Letter Copying Books, and all materials.

FIREPROOF SAFES, of the best quality.

DEED BOXES, CASH BOXES, CASES FOR FORMS, &c.

WRITING INKS, Black, Red and Blue, **COPYING INK, &c.**

ENGRAVING AND COPPER PLATE PRINTING

For Cards, Cheques, Receipts, Bonds, Certificates, &c.

GENERAL STATIONERY

Of every description, including Quill and Steel Pens and Pen-holders, Drawing Pencils, Inkstands, Despatch Boxes, Writing Cases, Brief Bags, Stationery Cabinets, Sealing Wax and Wafers, Tapes and Ferret, Cutlery, String and Twine, Postage Balances and Scales, Date Cases and Indicators, Wicker Office Baskets, Elastic Bands, &c., &c.

An Illustrated Catalogue will be sent Free by Post on application.

96 & 96, LONDON WALL; 25, 26 & 27, GREAT WINCHESTER STREET;
49, PARLIAMENT STREET, AND FINSBURY FACTORIES.

LIST OF PUBLICATIONS.

- THE BANKERS' MAGAZINE.**—Journal of the Money Market and Commercial Digest. A First Class Monthly Financial Publication, and the recognised organ of communication for the Banking interest. 1s. 6d. per number, or 21s. per annum, including two double numbers.
- THE BANKING ALMANAC, DIRECTORY, AND DIARY.**—Published annually in November. Cloth lettered, 7s. 6d.
- THE COUNTY COMPANION, DIARY, STATISTICAL CHRONICLE, AND MAGISTERIAL AND OFFICIAL DIRECTORY.**—Published annually in December. Prices—5s., 7s. 6d. and 12s., according to diary space and binding.
- THE SOLICITORS' DIARY, ALMANAC, AND DIRECTORY.**—Published annually in October. Prices—3s. 6d., 5s., 6s., and 8s. 6d., according to diary space. The **POCKET EDITION**, in leather tuck, 2s. 6d.; Roan Wallet, 4s. 6d.; and Russia Wallet, 7s. 6d.
- THE MUNICIPAL CORPORATIONS COMPANION, DIARY, DIRECTORY, AND YEAR-BOOK OF STATISTICS.**—Published annually in December. Prices—5s., 7s. 6d., 12s., according to diary space and binding.
- ENGLISH MUNICIPAL INSTITUTIONS: THEIR GROWTH AND DEVELOPMENT STATISTICALLY ILLUSTRATED.**—"A most useful and valuable work."—*Vide* Public Press. By J. R. SOMERS VINE, F.S.S. Royal 8vo, cloth, bevelled boards, 10s. 6d.
- THE ENGLISH MUNICIPAL CODE, OR THE MUNICIPAL CORPORATIONS (Consolidation) ACT, 1882**, with Notes, Comments, References, Statistical Appendix, and Voluminous Index, by J. W. HUME WILLIAMS, Barrister-at-Law, of the Middle Temple, and J. R. SOMERS VINE, F.S.S. Royal 8vo, stiff covers, 5s.; cloth lettered, 7s. 6d.
- THE NEW PRACTICE AND PLEADING UNDER THE JUDICATURE ACTS.**—With Notes and References, Rules of Court, Forms of Proceedings, and Pleadings, and a Copious Index. By Sir W. T. CHARLEY, Q.C. Third Edition. Price 7s. 6d., cloth lettered.
- THE NEW PRACTICE CASES.**—Containing important decisions upon the Judicature Acts. By Sir W. T. CHARLEY, Q.C. Nos. 1 to 12 are now ready, 1s. each number. The first two vols. (four numbers in each) bound in cloth, 5s. 6d. each. (Published at intervals.)
- CHAMBER CASES.**—Comprising all the Cases reported at Judges' Chambers and in the New Practice. With Notes and Comments. By Sir W. T. CHARLEY, Q.C. 3s. 6d., cloth.
- THE CONSOLIDATED COUNTY COURT ORDERS AND RULES, 1875, WITH FORMS AND SCALES OF COSTS AND FEES.**—(Reprinted, 1880.) Cloth back, 3s.
- The same, together with Scott's Index, Queen's Printers' Copy of the Act, and the additional Rules of 1876, 1880 and 1883. Cloth back, 7s. 6d.
- AN INDEX TO THE CONSOLIDATED COUNTY COURT ORDERS, RULES, AND FORMS, 1875.**—By H. ALAN SCOTT, of the Inner Temple, Barrister-at-Law. 2s.
- A COMPLETE TABLE OF THE TIMES FIXED UNDER THE COUNTY COURT ACT**, showing the Periods within or after which any proceeding may be taken. Price 1s.
- A TABLE (SECOND EDITION)** showing the various steps (down to the Hearing) of all ordinary Actions commenced in the country, for the use of Country Solicitors. The Table is published on an open sheet, 20 inches by 15 inches, showing at a glance the desired information. Price 1s.; or mounted on cardboard, varnished, 2s. 6d.
- A COMPLETE TABLE OF THE TIMES FIXED BY THE RULES OF THE SUPREME COURT OF JUDICATURE ACTS**, settled down to and including the Rules of December, 1876, showing the periods within or after which the different proceedings in an action should be taken. Price 1s.
- GUIDE TO THE PREPARATION OF BILLS OF COSTS**, with Precedents in all the Divisions, Schedule of Fees, Allowances to Witnesses, &c. By T. W. PRIDMORE, Esq. Sixth Edition, greatly enlarged. Cloth boards, lettered, 10s. 6d.
- THE SUMMARY JURISDICTION ACT, 1879**, with Notes, Rules, Index, &c. By H. MARTIN GREEN, Clerk to Justices. Price, in cloth, 3s. 6d.
- THE LAW OF MERCHANT SHIPPING AND FREIGHT**, with Tables of Cases, Forms, and Complete Index. (Royal 8vo, 700 pages.) By J. T. FOARD, of the Inner Temple, Barrister-at-Law. Price, in half-calf, One Guinea.
- PRINCIPLES AND PRECEDENTS OF MODERN CONVEYANCING, 1882.**—A Concise Exposition of the Draftsman's Art, with a Series of Forms framed in accordance with recent Legislation. By C. CAVANAGH, B.A., LL.B. (Lond.), of the Middle Temple and Northern Circuit, Barrister-at-Law; Author of "The Law of Money Securities." Cloth, 15s.
- MANUAL OF HYDROLOGY.** By N. BEARDMORE, C.E. In cloth, 24s.
- INDIAN EXCHANGE TABLES.** By J. I. BERRY. In cloth, 21s., or with Supplement, 25s.
- SUPPLEMENT TO DITTO**, separately, 5s.
- THE EMPLOYERS' LIABILITY ACT**, with Notes. By C. T. PART, Barrister-at-Law, 1s.

LIST OF PUBLICATIONS—CONTINUED.

- THE BANKRUPTCY ACT, 1883**, with Introduction and Index. By M. D. CHALMERS, M.A., Barrister-at-Law, and E. HOUGH, of the Board of Trade. Demy 8vo., 2s. 6d.
- THE AGRICULTURAL HOLDINGS (ENGLAND) ACT, 1883**, with Notes and Forms, and a Summary of the Procedure. By J. W. JEUDWINE, of Lincoln's-Inn, Barrister-at-Law. Demy 8vo. In boards, 2s. 6d., or in cloth, 3s. 6d.
- THE LAW RELATING TO CORRUPT PRACTICES AT ELECTIONS, AND THE PRACTICE ON ELECTION PETITIONS**, with an Appendix of Statutes, Rules and Forms. By MILES WALKER MATTINSON and STUART CUNNINGHAM MACASKIE, of Gray's Inn, Barrister-at-Law. Demy 8vo.; in cloth, 7s. 6d.
- THE BILLS OF EXCHANGE ACT, 1882**.—An Act to Codify the Law relating to Bills of Exchange, Cheques, and Promissory Notes. With Comments and Explanatory Notes. By M. D. CHALMERS, Esq., M.A., Barrister-at-Law (Draughtsman of the Bill). In stiff boards, 2s. 6d.; in cloth, 3s. 6d.
- THE MARRIED WOMEN'S PROPERTY ACT (45 & 46 Vic., c. 75)**. A concise Treatise showing the effect of this Act upon the existing Law. By THOMAS BARRETT-LENNARD, Esq., of the Middle Temple, Barrister-at-Law. In stiff boards, 1s. 6d.
- THE BILLS OF SALE ACTS, 1878 & 1882**, with Copious Notes, Index, and Precedents, showing the Alteration in the Law under the New Act. By MICHAEL G. GUIRY, LL.B., of the Middle Temple, Barrister-at-Law. In cloth, 5s.
- THE POSITION IN LAW OF WOMEN**.—Showing how it differs from that of Men, and the effect of the Married Women's Property Act, 1882. By THOMAS BARRETT-LENNARD, of the Middle Temple, Barrister-at-Law. In cloth, 6s.
- THE ELECTRIC LIGHTING ACT**, with Hints to Local Authorities. Explanatory Notes, and Amended Rules of the Board of Trade, &c. By ARTHUR P. POLEY, B.A., of the Inner Temple, Barrister-at-Law, and FRANK DETHRIDGE, Esq. In boards, 2s.
- HANDBOOK ON STAMP DUTIES (FIFTH EDITION)**, revised and corrected by H. S. BOND, Esq., of the Solicitors' Department, Inland Revenue, Somerset House. Stiffened covers, 1s.; cloth, 2s.
- BALLOT ACT, 1872**.—Parliamentary and Municipal Elections Act, 1872, 35 and 36 Vic., cap. 33. 8vo, paper cover, 6d.
- BALLOT ACT, 1872**.—Abstract of the principal provisions of the Parliamentary and Municipal Elections Act, 1872, 35 and 36 Vic., cap. 33. Prepared for the information of Returning Officers at Parliamentary and Municipal Elections in England and Wales. 8vo, sewed, 3d.
- LAWS ON BILLS OF EXCHANGE, PROMISSORY NOTES, CHEQUES, &c.**, of England Germany, France, Italy, and Spain. By H. D. JENCKEN, Barrister-at-Law. Price 5s.
- THE PRACTICE AND PROCEEDINGS OF THE COURTS OF INVESTIGATION INTO SHIPPING CASUALTIES AND COURTS OF SURVEY**.—With Index and References. By C. J. PEILE, Esq., Barrister-at-Law, of the Inner Temple. Cloth lettered, 2s. 6d. The work is dedicated, by permission, to the Wreck Commissioner.
- A DIGEST OF THE ELEMENTARY EDUCATION ACT, 1870**, with Orders of the Privy Council. A Concise Guide to Members of School Boards, and Instructions to Returning Officers and Town Clerks for conducting Elections, with Forms, by H. MONCKTON, Solicitor. Post 8vo, cloth lettered, 2s. 6d.
- GENERAL RAILWAY ACTS, 1830—1874**.—A Collection of the General Railway Acts for the Regulation of Railways in England and Ireland, including the Companies, Lands, and Railways Clauses Consolidation Acts. Thirteenth Edition, with the Amending Enactments complete to the close of 1874. 12mo, cloth, 18s.
- CLAUSES CONSOLIDATION ACTS, 1845—1877**. Cloth, 16s.
- STANDING ORDERS**.—The Standing Orders of the Lords and Commons relative to Private Bills, with Appendix. Published at the close of each Session. Cloth, 5s.
- PRACTICAL HINTS ON THE REGISTRATION OF FORMS AND RETURNS REQUIRED TO BE FILED** under the "Joint Stock Companies Acts, 1862 and 1867," and "The Railway Companies Security Act, 1866." 8vo, limp cloth, 1s. 6d.
- WATERLOW'S SCRIBBLING DIARY**. Foolscap folio, 6 days on a page, interleaved strong paper cover, 1s.; ditto 3 days, 1s. 6d.; ditto 2 days, $\frac{1}{2}$ bound cloth, 3s.

WATERLOW & SONS LIMITED, LAW PUBLISHERS.

PRINCIPLES AND PRECEDENTS
OF
MODERN CONVEYANCING,
1882,

*A Concise Exposition of the Draughtsman's Art, with a Series of
Forms framed in accordance with the New Legislation.*

THE VOLUME IS DIVIDED INTO THREE PARTS :

- I.—PRELIMINARY DISSERTATION.
II.—PRACTICAL CONVEYANCING ACTS, INCLUDING THE CONVEYANCING AND
LAW OF PROPERTY ACT, 1881, WITH NOTES.
III.—PRECEDENTS.
-

The object of the present work is to supply a Handbook which shall at once explain the leading features of the system of Conveyancing inaugurated by the above statute and the Solicitors' Remuneration Act, 1881, and at the same time furnish such a selection of Precedents as will meet the ordinary needs of a Solicitor's office.

To render the book more complete, suggestions and directions are given, by the aid of which the forms in existing treatises may be adapted to the New Law.

BY

C. CAVANAGH, B.A., LL.B. (LOND.),

OF THE MIDDLE TEMPLE AND NORTHERN CIRCUIT, BARRISTER-AT-LAW.

Author of "The Law of Money Securities."

PRICE 15s.

95 & 96, LONDON WALL; 25, 26 & 27, GREAT WINCHESTER STREET;
49, PARLIAMENT STREET, AND FINSBURY FACTORIES.

WATERLOW & SONS LIMITED, LAW PUBLISHERS.

SECOND EDITION.

THE
MARRIED WOMEN'S PROPERTY ACT

(45 & 46 VICT., c. 75.)

A CONCISE TREATISE,

SHOWING THE

EFFECT OF THIS ACT UPON THE EXISTING LAW,

BY

THOMAS BARRETT-LENNARD, Esq.,

OF THE MIDDLE TEMPLE, BARRISTER-AT-LAW.

IN STIFF BOARDS, 1s. 6d.

THE ENGLISH MUNICIPAL CODE,

OR THE

MUNICIPAL CORPORATIONS (Consolidation) ACT, 1882,

*WITH NOTES, COMMENTS, REFERENCES, STATISTICAL APPENDIX,
AND VOLUMINOUS INDEX,*

BY

J. W. HUME WILLIAMS,

BARRISTER-AT-LAW, OF THE MIDDLE TEMPLE,

AND

J. R. SOMERS VINE, F.S.S.,

AUTHOR OF "ENGLISH MUNICIPAL INSTITUTIONS—THEIR GROWTH AND DEVELOPMENT."

Royal 8vo., stiff covers, 5s.; cloth lettered, 7s. 6d.

95 & 96, LONDON WALL; 25, 26 & 27, GREAT WINCHESTER STREET;
49, PARLIAMENT STREET, AND FINSBURY FACTORIES.

WATERLOW & SONS LIMITED, LAW PUBLISHERS.

**THE BANKING ALMANAC
AND DIARY,
YEAR-BOOK OF STATISTICS, AND DIRECTORY.**

EDITED BY R. H. INGLIS PALGRAVE, Esq., F.S.S.

THIS WORK, WHICH HAS LONG BEEN
PATRONISED BY THE BANK OF ENGLAND,
*The Private and Joint-Stock Banks, the Private and Public Discount Establishments, the
Credit and Finance Companies, and the principal Financial and Mercantile
Establishments,*
Contains much valuable Statistical Information from Official Documents.

The DIARY is printed on Superfine Paper, 8vo, and Subscribers wishing to have Diaries with
one page for each day, can obtain the same on application, at a slight increase of charge.
The ALMANAC—CALENDAR and USUAL TABLES—is full and complete.
The YEAR-BOOK embraces a variety of useful Statistics, and includes—

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>I. Banking Retrospect.
II. Statistics of the Bank of England, giving a complete analysis of the progress of its business from 1845, with the principal details of importance.
III. Bills brought forward in Parliament concerning Banking in Great Britain and Ireland.
IV. Returns of Bank Notes of the Bank of England held by the Public and in Reserve by the Bank, Bullion, Bills Discounted, London Bankers' Balances, &c.
V. Information associated with Suspended Banks, Finance and Discount Companies.</p> | <p>VI. Useful Information for Bank Managers and Cashiers. Tables of the value of the Coins in use in the various States of the World (including the nominal and metallic values)—Explanations of the Terms generally employed in Foreign Bills, Usance, Days of Grace, &c., &c.
VII. Stamp Duties.
VIII. Notices of Books referring to Banking, published during the year.
IX. Abbott's Analysis of Joint-Stock Banks.
X. Parliamentary Directory.
XI. Insurance Directory, with Comparative Table of the Rates charged for Life Insurance by the Principal Offices in Great Britain.</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**TABLE OF PUBLIC GENERAL ACTS OF PAST SESSION.
IMPORTANT PARLIAMENTARY PAPERS ON BANKING AND COMMERCE.**

THE BANKING DIRECTORY.

This portion of the work is made as complete and accurate as possible. It is *carefully revised*, and contains—

1. *Bank of England*.—List of all the Officers of the several Departments.
2. *London Bankers*.—Names, Residences and Occupations, as given in the Official Returns.
3. *A List of all the Private Banks*, with the Names and Addresses of each of the Partners, carefully corrected from their own returns. Statement of Branches, and the Names of the Agents.
4. *A List of all the Joint-Stock Banks* in the United Kingdom, with the Dates of their Establishment; Number of Partners; Paid-up Capital; Guarantee Fund; Fixed Issues; and List of Branches and Sub-Branches, with the Names of the Managers at each.
5. *A List of Foreign and British Colonial Joint-Stock Banks* having Offices in London.
6. *The Particulars of the Finance and Credit Companies*, Capital, Reserve Fund, and the Principal Officers.
7. *An Alphabetical List of Colonial and Foreign Banks and Bankers*, greatly extended and improved.
8. *A List of Colonial and Foreign Banks and Bankers*.
9. *An Alphabetical List of all the Towns in Great Britain* where Banks are established, with the Title of the Bank, Name of its Manager, and London Agent.
10. *An Alphabetical List of all the Bankers* in the United Kingdom.
11. *An Alphabetical List of the Directors of the principal London Joint-Stock Banks, Discount Companies and Finance and Credit Companies*.

Published in November. Price Seven Shillings and Sixpence.

95 & 96, LONDON WALL; 25, 26 & 27, GREAT WINCHESTER STREET;
46, PARLIAMENT STREET, AND FINSBURY FACTORIES.

WATERLOW & SONS LIMITED, LAW PUBLISHERS.

THE COUNTY COMPANION,
DIARY, STATISTICAL CHRONICLE,
AND
Magisterial and Official Directory,
PUBLISHED ANNUALLY IN DECEMBER;
AND THE
MUNICIPAL CORPORATIONS COMPANION,
DIARY, DIRECTORY,
AND
YEAR BOOK OF STATISTICS,
PUBLISHED ANNUALLY IN DECEMBER.

EDITED BY J. R. SOMERS VINE, F.S.S.
(Author of "English Municipalities ; their Growth and Development.")

WATERLOW & SONS LIMITED

Have much pleasure in stating that these Works have been unanimously declared to be
INDISPENSABLE TO EVERY MAGISTRATE AND COUNTY OFFICIAL
IN ENGLAND AND WALES,
AND TO ALL WHO HOLD OFFICE IN OR UNDER ANY MUNICIPALITY,
And unequalled Works of Reference for the general Public.

PRICE OF EITHER OF THE WORKS :

In Strong Cloth Binding, Lettered, with a Diary Space of one-third of a page to each day,
FIVE SHILLINGS.

In Strong Cloth Boards, Gilt, with a Diary Space of one page for each day,
SEVEN SHILLINGS AND SIXPENCE.

In Elegant Morocco or Russia Binding, with Subscriber's Name lettered on Cover,
TWELVE SHILLINGS.

FREE BY POST.

95 & 96, LONDON WALL; 25, 26 & 27, GREAT WINCHESTER STREET;
49, PARLIAMENT STREET, AND FINSBURY FACTORIES.

WATERLOW & SONS LIMITED, LAW PUBLISHERS.

FORTIETH YEAR OF PUBLICATION.

THE SOLICITORS' DIARY,
LEGAL DIGEST AND DIRECTORY,
FOR 1884.

An excellent Diary, with Legal Notes for each day in the year—The Stamp Act, with Amendments to the present time—Succession and Legacy Duties—List of Banks, etc.—County Courts, etc.—Municipal Boroughs, Recorders, Town Clerks—Clerks of the Peace—Undersheriffs—Queen's Counsel and Serjeants-at-Law—Oaths in Supreme Court—Jurats, etc.—Suggestions on Registering Deeds and Papers at Public Offices—Insurance Directory—Table of Protective Statutes—Index to Public General Acts—Scales of Commission in Conveyancing business—Time Tables and Tables of Costs under Judicature Acts—Parliamentary Directory—District Registries, etc.

A digest of the Public General Acts of the past Session,

WITH ALPHABETICAL INDEX, ETC.;

TOGETHER WITH

NAMES AND ADDRESSES OF BARRISTERS IN PRACTICE;

ALSO

LISTS OF LONDON AND COUNTRY SOLICITORS,

WITH

APPOINTMENTS HELD BY THEM.

Revised with the Official Roll, by permission of the Council of the Incorporated Law Society, and corrected by direct correspondence.)

No. 1. With One page for each day, Half-bound Law Calf—Price 6s.

No. 2. Ditto, ditto, with Money columns.

No. 3. Interleaved, giving two pages to each day, ditto „ 8s. 6d.

No. 4. With Two days on each page, ditto ditto „ 5s.

No. 5. Ditto, ditto with Money Columns.

No. 6. With Three days on each page, bound in Embossed Cloth, price 3s. 6d.

The DIARY is printed on Superfine Paper, and can be obtained ruled, and with each column for receipts and payments if desired, or otherwise, as specially ordered.

The POCKET EDITION of the "SOLICITORS' DIARY" contains in a very small space the leading features of the large edition. Price, in leather tuck, 2s. 6d.; Roan Wallet, 4s. 6d.; and Russia Wallet, 7s. 6d.

95 & 96, LONDON WALL; 25, 26 & 27, GREAT WINCHESTER STREET;
49, PARLIAMENT STREET, AND FINSBURY FACTORIES.

WATERLOW & SONS LIMITED, LAW PUBLISHERS.

THIRD EDITION.

THE BILLS OF EXCHANGE ACT, 1882.

*AN ACT TO CODIFY THE LAW RELATING TO BILLS OF EXCHANGE,
CHEQUES, AND PROMISSORY NOTES.*

With Explanatory Notes and Index,

BY

M. D. CHALMERS, Esq., M.A.,
BARRISTER-AT-LAW (DRAFTSMAN OF THE BILL).

"Lawyers will find it a most convenient and portable edition of a most important Statute."—*Law Journal.* In Stiff Boards, 2s. 6d. In Cloth, 3s. 6d.

"To say that Mr. Chalmers is the draftsman of the Act is almost to guarantee that his notes explaining the sections or the reasons for their becoming law are absolutely correct. The index is satisfactory, so far as we have tested it. We may add that the book is beautifully printed."—*Law Times.*

SECOND EDITION.

THE NEW BILLS OF SALE ACT.

THE BILLS OF SALE ACTS,

1878 and 1882,

*WITH COPIOUS NOTES, INDEX AND PRECEDENTS, SHOWING THE
ALTERATION IN THE LAW UNDER THE NEW ACT,*

BY

MICHAEL G. GUIRY, Esq., LL.B.

(OF THE MIDDLE TEMPLE, BARRISTER-AT-LAW.)

"There is one feature for which the author deserves to be rewarded with the proceeds of a large sale of his book—the references are given to *all* the reports. We can recommend the volume as a most useful one to take into court or chambers: and in County Courts, where libraries are rather scarce, the book will be of the greatest value."—*Law Times.*

EXTRACT FROM INTRODUCTION.

"An attempt is made in the following pages to furnish the legal profession with a useful hand-book in offices and courts where a law library is not at hand. The writer has found in practice that although quotations from text-books may be faithful representations of the expressions of learned judges, yet, since the *ipsissima verba* of the judgments are not given, courts refuse to act upon the authority of such quotations. As far as possible, therefore, the facts of cases are here given, together with such portions of judgments as are relevant; and it is thereby hoped that the book may be more useful to practitioners than if it contained, in a sentence, the result of each case."

IN CLOTH, 5s. ; or for Cash with Order, 4s.

95 & 96, LONDON WALL; 25, 26 & 27, GREAT WINCHESTER STREET;
49, PARLIAMENT STREET, AND FINSBURY FACTORIES.

WATERLOW & SONS LIMITED, LAW PUBLISHERS.

THE BANKRUPTCY ACT, 1883,

WITH INTRODUCTION AND INDEX,

BY

M. D. CHALMERS, M.A., Barrister-at-Law, & E. HOUGH, of the Board of Trade.

About 150 pages, Demy 8vo., 2s. 6d.

**THE AGRICULTURAL HOLDINGS
(ENGLAND) ACT, 1883,**

WITH

NOTES AND FORMS, AND A SUMMARY OF THE PROCEDURE,

BY

J. W. JEUDWINE,

OF LINCOLN'S INN, BARRISTER-AT-LAW.

About 120 pages, Demy 8vo. In Boards, 2s. 6d., or in Cloth, 3s. 6d.

**THE LAW RELATING TO
CORRUPT PRACTICES AT ELECTIONS,
AND THE PRACTICE ON ELECTION PETITIONS,**

WITH AN

APPENDIX OF STATUTES, RULES AND FORMS,

BY

MILES WALKER MATTINSON & STUART CUNNINGHAM MACASKIE

OF GRAY'S INN, BARRISTERS-AT-LAW.

About 250 pages, Demy 8vo. ; in Cloth, 7s. 6d.

A Complete List of our Publications sent free on application.

95 & 96, LONDON WALL; 25, 26 & 27, GREAT WINCHESTER STREET;
49, PARLIAMENT STREET, AND FINSBURY FACTORIES.

WATERLOW & SONS LIMITED, PARCHMENT DEALERS.

Price List of Parchment.

PLAIN.

Depth.	Width.				Each.		Best picked.		Per doz.		Per doz. Best picked.
10	× 15	..	..	..	-/5	..	-/6	..	4/-	..	5/-
12	× 16	..	..	..	-/9	..	-/10	..	8/-	..	9/-
13	× 17	..	..	..	-/10	..	1/-	..	9/6	..	11/-
15	× 20	..	..	..	1/-	..	1/2	..	11/6	..	12/6
16	× 21	..	..	..	1/2	..	1/4	..	13/-	..	14/6
17	× 22	..	..	..	1/4	..	1/6	..	15/-	..	16/6
18	× 24	..	..	..	1/6	..	1/8	..	17/6	..	19/-
19	× 25	..	..	..	1/10	..	2/-	..	20/-	..	22/-
22	× 27	..	..	..	2/-	..	2/3	..	22/-	..	25/-
23	× 28	..	..	..	2/3	..	2/6	..	25/-	..	28/-
26	× 29	..	..	..	2/6	..	2/9	..	28/6	..	31/-
26	× 31	}	..	..	2/9	..	3/-	..	31/6	..	34/-
27	× 30		..	..		..		..		..
28	× 32		..	..		..		..		..
					3/3	..	3/6	..	35/-	..	37/-

Larger sizes can be supplied.

RED-LINED AND RULED.

				Each.		Best picked.		Per doz.		Best picked. Per doz.		
Indentures Texted	15	×	20	..	1/6	..	1/9	..	15/-	..	18/-	
	26	×	29	..	3/-	..	3/6	..	30/-	..	36/-	
	27	×	30	..	3/6	..	4/-	..	32/-	..	38/-	
Followers	23	×	28	..	2/6	..	3/-	..	26/-	..	30/-
	..	25	×	30	..	3/-	..	3/6	..	30/-	..	36/-
Bookways Texted	{	10½	×	17	..	1/-	..	1/2	..	10/6	..	12/-
		13	×	17	..	1/3	..	1/6	..	14/-	..	16/-
16		×	21	..	2/-	..	2/3	..	21/-	..	23/-	
18		×	24	..	2/3	..	2/6	..	22/-	..	25/-	
19		×	25	..	2/6	..	2/9	..	26/-	..	28/-	
These are the sizes of Skins before folding.		22	×	27	..	2/9	..	3/-	..	28/-	..	30/-

MEMORIALS.

RULED OR PLAIN.

									Each.		Per doz.
10	× 15	..	..	..	..	..	..	..	-/6	..	5/-
13	× 17	..	..	..	..	..	..	..	-/10	..	9/6
15	× 20	..	..	..	..	..	..	..	1/-	..	11/6
18	× 24	..	..	..	..	..	..	..	1/6	..	17/6
23	× 28	..	..	..	..	..	..	..	2/3	..	25/-

These can be had with or without 2/6 stamp impressed.

95 & 96, LONDON WALL; 25, 26 & 27, GREAT WINCHESTER STREET;
49, PARLIAMENT STREET, AND FINSBURY FACTORIES.

WATERLOW & SONS LIMITED, PARCHMENT DEALERS.

P R O B A T E S.

WITH OR WITHOUT HEADING, BLACK LINED AND RULED.

				Each.		Best picked.		Per doz.		Best picked.
12 X 16	..	..	..	1/-	..	1/2	..	10/6	..	12/-
15 X 20	..	..	..	1/6	..	1/9	..	15/-	..	18/-
18 X 24	..	..	..	2/-	..	2/3	..	22/-	..	25/-
22 X 27	..	..	..	2/3	..	2/6	..	26/-	..	28/-
26 X 29	..	..	..	3/-	..	3/6	..	30/-	..	36/-
28 X 32	..	..	..	3/9	..	4/-	..	40/-	..	45/-

Paper Indentures, Agreements, &c.,

PRINTED, RULED, AND RED-LINED.

	PER QUIRE.		
	Large Post 4to.	Fcap.	Demy.
THIS INDENTURE	s. d. 2 6	s. d. 3 6	s. d. 4 6
MEMORANDUM OF AGREEMENT	2 6	3 6	4 6
AN AGREEMENT	2 6	3 6	4 6
"THIS IS THE LAST WILL," &c. (not red lined)	2 6	3 6	4 6
FOLLOWERS for same	2 6	3 6	4 6

Per Quire.

s. d.

THIS INDENTURE, on Blue Wove Copy, half sheets, ruled ... 1 6

THIS INDENTURE, on Water-lined Brief 2 0

THIS IS THE LAST WILL, &c., on Lined Brief 2 6

SPECIMENS OF ANY OF THE ABOVE SENT ON APPLICATION.

95 & 96, LONDON WALL; 25, 26 & 27, GREAT WINCHESTER STREET;
49, PARLIAMENT STREET, AND FINSBURY FACTORIES.

"ZEPHYR" COPYING PAPER

TAKES 8 COPIES.

IS CHEAP AND EFFECTIVE.

In introducing this Paper to the Public, WATERLOW & SONS LIMITED feel sure it will meet with general approval, owing to its remarkable thinness and toughness. **EIGHT COPIES** can be easily taken, and, with a little extra care, as many as **TEN COPIES**. It will, therefore, be found invaluable to Bankers, Solicitors, and others having extensive correspondence.

Quarto—per Ream, 960 Sheets	6/-
Foolscap " " "	8/-

Or in Books, Half Calf, Indexed, Paged, and Lettered.

Quarto—500 Leaves	6/-
" 1,000 "	10/-
Foolscap—500 Leaves	8/-
" 1,000 "	14/-

"STOUT BUFF" COPYING PAPER

(AS USED IN THE GOVERNMENT OFFICES),

AN EXCELLENT SUBSTITUTE FOR WRITTEN DUPLICATES,

Saving manual labour.

Quarto—per Ream, 480 Sheets	4/6
Foolscap " " "	6/6
Books, Half Basil, Quarto, 500 pages	7/6
" " " 750 "	10/6
" " Foolscap, 600 "	10/6
" in Half Calf, Quarto, 600 "	10/6
" " Foolscap 600 "	13/6

This Paper will Copy Documents long after writing, and with almost any Ink if sufficiently damped—even Correspondence *Received*, which has been previously copied.

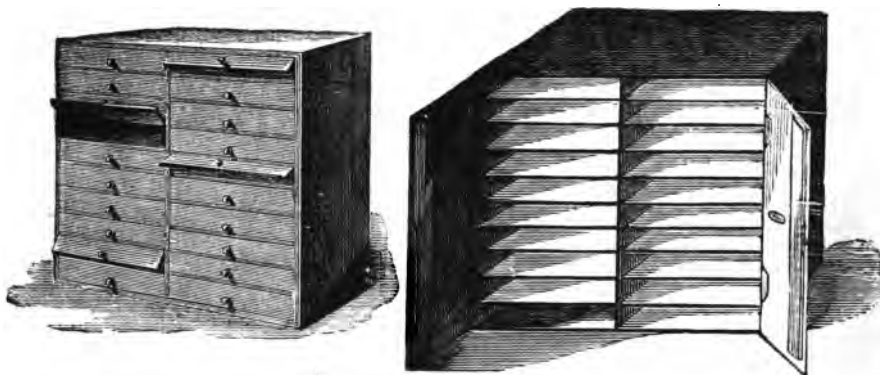
INSTRUCTIONS.

For Copying Ink recently written, thoroughly remove all superfluous moisture; when more than one copy is required, *take them separately*, making each succeeding one a little damper and pressing longer. In this manner from four to six copies may be taken.

For Copying Ink which has been some days written, or copied before, or for Non-copying Ink, *damp well on both sides and press for a few minutes. One and sometimes two copies can be taken in this way.*

WATERLOW & SONS LIMITED, LAW STATIONERS.

FORM CASES.



DROP DOORS,

COVERED GREEN CLOTH.

					s.	d.
12 Divisions	JUDICATURE SIZE..	..	..	..	19	0 each.
20	" "	..	..	..	28	0 "
12	" BANKRUPTCY SIZE	..	..	..	21	0 "
20	" "	..	..	..	30	0 "

OAK OR MAHOGANY,

WITH TWO FOLDING DOORS.

		s.	d.
12 Divisions,	JUDICATURE SIZE..	33	0 each.
20	" "	48	0 "
12	" BANKRUPTCY	42	0 "
20	" "	50	0 "

JAPANNED IRON.

		s.	d.
12 Divisions,	JUDICATURE SIZE..	28	6 each.
20	" "	42	0 "
20	" BANKRUPTCY	55	0 "

Hand Endorsement Stamps for Commissioners for Oaths, in Mahogany Box, with Ink Pad complete, 10s. 6d.

JUDICATURE PAPER.

REQUISITE UNDER THE ACT.

<i>Price per Ream, Ruled with proper Margins ...</i>	<i>...</i>	<i>22s. 6d.</i>
<i>" " Printed Headings for Special Forms</i>	<i>...</i>	<i>30s. 0d.</i>
<i>" " Plain ...</i>	<i>...</i>	<i>18s. 6d.</i>

PRINTING OF PLEADINGS, &c.

By Order XIX., Rule 5, of the first Schedule of the Supreme Court of Judicature Acts, 1875, amended by Rule 5a of the Rules of the Supreme Court, June 1876, all proceedings of more than 10 folios in length must be printed. WATERLOW & SONS LIMITED have therefore made arrangements to undertake the printing of the Pleadings, Affidavits, Depositions, Special Cases, Petitions of Right, &c., in the manner prescribed by the Rules of Court, and, when required, to furnish Proofs or Printed Copies by return of Post.

95 & 96, LONDON WALL; 25, 26 & 27, GREAT WINCHESTER STREET;
49, PARLIAMENT STREET, AND FINSBURY FACTORIES.

WATERLOW & SONS LIMITED, LAW STATIONERS.

LAW AND PARLIAMENTARY STATIONERY AND PRINTING.

Forms under the Judicature Acts, 1873 & 1875—Conveyancing Forms and Engrossments
—Auction, Shipping, Commercial and Miscellaneous Forms—Bankruptcy and Liquidation
—Trade Mark, Naturalization, and Companies' Forms.

A Catalogue of Legal and General Forms sent on application.

INLAND REVENUE STAMPING.

WATERLOW & SONS LIMITED devote special attention to this department, and are in daily attendance at the Stamp Office, Somerset House. They are thus enabled to ensure the Stamping of Bankers' Cheques, Drafts, Bills of Exchange, &c., with the utmost possible despatch.

Deeds and all executed instruments stamped and forwarded by return of Post, a small charge being made for attendance and postage. The greatest care is exercised in the assessment of Stamp Duty payable on any document entrusted to the Company for stamping, but they incur no responsibility in the event of an improper assessment being made.

As the amount of Stamp Duty must be paid to the Stamp Office before any document can be stamped, it is particularly requested that a remittance accompany the instructions for stamping.

Cheques and Post Office Orders to be made payable to the Company, and to be crossed "Union Bank of London.—Not Negotiable."

Spoiled Stamps accompanied with the requisite Affidavits, or Allowance Tickets for Spoiled Stamps, are credited in full where the amount is taken out in Printing or Stationery, but a small amount for commission is deducted when exchanged for Cash.

LAW AGENCY.

RESIDUARY AND SUCCESSION ACCOUNTS PASSED.

LEGACY AND SUCCESSION OR OTHER DUTIES PAID.

All payments in respect of these duties have now to be made at the Office at Somerset House instead of at the Local Offices as formerly.

BILLS OF SALE STAMPED AND FILED.

JOINT-STOCK COMPANIES REGISTERED.

ADVERTISEMENTS INSERTED IN THE "LONDON GAZETTE."

ANNUAL SUMMARIES, SPECIAL RESOLUTIONS, &c., FILED.

SEARCHES MADE AT ANY OF THE PUBLIC OFFICES WITH THE GREATEST CARE AND EXPEDITION.

TRADE MARKS REGISTERED.

Designs furnished and Blocks cut for same.

**95 & 96, LONDON WALL; 25, 26 & 27, GREAT WINCHESTER STREET;
49, PARLIAMENT STREET, AND FINSBURY FACTORIES.**

WATERLOW & SONS LIMITED, LAW STATIONERS.

LAW WRITING AND ENGROSSING.

WATERLOW & SONS LIMITED desire to call the attention of Solicitors and Professional Gentlemen to the facilities which they are enabled to offer for the execution of all classes of Legal Work.

A competent staff of law writers and clerks are constantly engaged at Great Winchester Street, London Wall, and W. & S. are therefore enabled to execute any work entrusted to them with the utmost care and despatch.

DEEDS, &c., carefully and correctly engrossed.

STAMP DUTIES assessed and paid.

Charges for copying, at per folio of 72 words :—

	s.	d.
Engrossments in Round-hand	0	2
Attested Copies and Fair Copies of every description	0	1½
Wills, Abstracts, Parliamentary Briefs and Minutes of Evidence	0	2
Abstracting Titles and Fair Copy	0	6

Drafts, &c., received from the country can be engrossed or copied and sent by return post when required.

A large stock of STAMPED PARCHMENT AND PAPER of every description being kept ready for immediate use, any order can be executed without the slightest delay.

LAW LITHOGRAPHY.

The facilities afforded by WATERLOW & SONS LIMITED in this department having led to so great an increase of their business, they are now enabled to retain a staff of hands capable of completing, in a few hours, an amount of work which would formerly have required as many days to accomplish.

Briefs, Abstracts, Minutes of Evidence, Reports, and Legal Documents, Builders' Quantities, Contracts, Specifications, &c., lithographed in good plain round-hand, with the greatest accuracy.

A Brief of 100 sheets can, if necessary, be lithographed in three or four hours. The evidence taken daily on Private Bills or Arbitration Cases may be neatly and correctly lithographed or printed *during the night*, and delivered to Counsel *before 9 o'clock the following morning*.

The following prices are intended as a guide to the charges for the ordinary description of Law Lithography; where a greater number of copies of any Document are required, special estimates will be given.

Abstracts copied Briefwise, 5 to 8 folios per sheet, on Superfine Paper :—

8 Copies	6d. per sheet.
12 "	4½d. "
20 "	3½d. "
30 "	3d. "
50 "	2d. "
100 "	1½d. "

Per 100, after the first 100, 10s. 6d.

Where preferred, the charge will be made by the folio, in proportion to the above scale. Minutes of Evidence and Parliamentary documents are charged at 2d. per folio.

Drafts, 4 to 5 folios per page, on Superfine Laid Copy :—

10 Copies	4d. per page.
20 "	2½d. "
50 "	1½d. "
100 Copies	7s. 9d.

Per 100, after the first 100, 5s. 9d.

Deeds, Law Letters, and Forms Lithographed at reasonable prices.

LAW AND PARLIAMENTARY PRINTING.

WATERLOW & SONS LIMITED have for years devoted special attention to the perfecting of this Department, and undertake the printing of all legal matters, such as Appeals to the House of Lords, &c., in strict conformity to the New Standing Orders. Admiralty and Appeal Cases and Appendices printed, Memorandum and Articles of Association, Books of Reference, Deeds, Conveyances, Mortgages, &c.

In the Parliamentary Printing Department, where expedition and punctuality are of the greatest importance, W. & S. employ a large staff having a practical knowledge of the work. They are therefore enabled to execute all orders entrusted to them, however large, in the shortest possible space of time.

Minutes of evidence printed during the night and delivered wherever desired by 9 o'clock the following morning.

Parliamentary Bills, Notices, Petitions, Reports, &c. Addresses and Circulars to Electors printed or lithographed, and posted with the greatest despatch.

95 & 96, LONDON WALL; 25, 26 & 27, GREAT WINCHESTER STREET;
49, PARLIAMENT STREET, AND FINSBURY FACTORIES.

